

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

2007 MAY -3 P 2: 38

RENA D. STINSON,

PETITIONER,

v.

STATE OF ALABAMA, *et. al.*,

RESPONDENTS.

DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

NO. 2:07-CV-225-WHA

RESPONDENTS' ANSWER

Come now the Respondents in the above-styled cause, by and through the Attorney General of the State of Alabama, and, in response to this Honorable Court's order to show cause why a writ of habeas corpus should not be granted, state as follows:

1. Rena Dorsey Stinson challenges her August 23, 2005, Montgomery County conviction for two counts of first-degree theft of property and one count of second-degree theft of property and her twenty-five year sentence for each count on the following grounds:

a. Stinson was denied effective assistance of trial counsel because trial counsel;

i. failed to adequately investigate;

- ii. did not “allow[]” witnesses to testify on Stinson’s behalf;
- iii. did not allow Stinson to testify on her own behalf;
- iv. did not present the available defense of alibi;
- v. failed to move for the suppression of evidence;
- vi. failed to “file appropriate motions” including motions to obtain discovery;
- vii. did not make appropriate objections including failing to object to:
 - (1). hearsay testimony;
 - (2). leading questions regarding the photographic lineup; and,
 - (3). the admission of evidence including the photographic lineup;
- viii. was not adequately prepared for trial;
- ix. failed to keep Stinson informed of the status of her case;
- x. failed to obtain the “still shot photo” used by Detective Roberts during interrogation which could have vindicated Stinson;
- xi. erred by questioning Detective Roberts about the photographic lineup, video tapes, and DNA;
- xii. failed to ensure that Stinson was properly informed of the charges against her;
- xiii. did not allow Stinson an opportunity to review the presentence report; and,
- xiv. failed to timely file appropriate post-trial motions

- b. Stinson was denied effective assistance of appellate counsel because appellate counsel;
 - i. failed to raise ineffectiveness of trial counsel claims;
 - ii. “filed a fraudulent motion to the court” requesting indigent status for Stinson’s appeal when she had paid him “\$4,000 to file the appeal”; and,
 - iii. “intentionally left out valid grounds in the appeal”;
- c. Stinson was denied the opportunity to enter a plea;
- d. Stinson was not notified of “court appearance[s]” such as arraignment or trial;
- e. she was not properly arraigned;
- f. she was denied a preliminary hearing;
- g. Stinson was unable to participate or help with her trial because she was threatened with contempt charges;
- h. one of the victim’s in-court identification of Stinson was tainted because the prosecution previously identified Stinson to the victim;
- i. the State withheld potentially exculpatory evidence such as the surveillance video, original complaints, a still shot photograph, and DNA evidence;
- j. Stinson’s conviction and resulting sentence is “unlawful, unconstitutional, and void” because it violates her due process rights;
- k. admission of Stinson’s “mug shot” was erroneous because it impermissibly suggested she had a criminal record; and,
- l. a witness’s in-court identification should have been suppressed because the prosecution failed to establish it was based on an independent basis.

2. The Respondents acknowledge that Stinson is presently incarcerated in Birmingham Work Release Center pursuant to her lawful conviction, but deny that she is in custody in violation of the laws or Constitution of the United States.

3. The Respondents aver that Stinson's petition must be dismissed without prejudice because she failed to properly exhaust all of her claims. Additionally, at this point, Stinson still has state remedies available.

4. Respondents aver that, by asserting the defense of exhaustion, they do not waive the future assertion of other applicable defenses such as statute of limitation, procedural default, lack of federal question, and lack of merit.

PROCEDURAL HISTORY

A. Trial Proceedings and Direct Appeal

Stinson was indicted by a Montgomery County Grand Jury on July 9, 2004, and charged with three counts of first-degree theft of property in violation of Section 13A-8-3 of the Code of Alabama (1975) and one count of second-degree theft of property in violation of Section 13A-8-4 of the Code of Alabama (1975). (Exhibit A) On August 22, 2005, the trial court granted the State's motion to nol pros count three of Stinson's indictment (charging first-degree theft of property) and trial commenced on the remaining three counts. (Exhibit A) The following

day, the jury found Stinson guilty of two counts of first-degree theft of property and one count of second-degree theft of property. (Exhibit A)

On October 24, 2005, the trial court sentenced Stinson to twenty-five years' imprisonment on each count. (Exhibit A) Immediately after sentencing, Stinson gave oral notice of appeal. (Exhibit A) On November 21, 2005, Stinson filed a motion for judgment of acquittal alleging that the State had failed to present sufficient evidence to sustain her convictions.¹ (Exhibit A) Judge Truman M. Hobbs Jr. denied Stinson's post-trial motion on January 9, 2006. (Exhibit A)

On March 15, 2006, Stinson's retained appellate counsel, Mr. Richard K. Keith, filed a brief with the Alabama Court of Criminal Appeals raising two claims:

- (1) that the trial court abused its discretion when it denied Stinson's right to an arraignment; and,
- (2) the trial court erred when it denied Stinson's motion for judgment of acquittal because the State failed to present sufficient evidence.

(Exhibit B)

The Alabama Court of Criminal Appeals issued a memorandum opinion on September 22, 2006, denying the claims, finding: (1) Stinson waived her claim that she was not properly arraigned because it was not timely raised; and, (2) the State presented legally sufficient evidence to submit the case to the jury. (Exhibit D)

¹ For purposes of expediency, the undersigned consolidated similar allegations contained in Stinson's motion for judgment of acquittal.

On October 2, 2006, the court granted Mr. Keith's motion to withdraw as appellate counsel. (Exhibit E)

Stinson's pro se application for rehearing was overruled by the Alabama Court of Criminal Appeals on November 3, 2006. (Exhibit F) The Supreme Court of Alabama dismissed Stinson's pro se petition for writ of certiorari as untimely on December 1, 2006. (Exhibit H)

B. Federal Habeas Petition

Stinson filed the present federal habeas petition, her first, on January 28, 2007.² (Stinson's petition, attached)

STATUTE OF LIMITATION

A one-year limitation period applies to federal habeas petitions under the Antiterrorism and Effective Death Penalty Act (AEDPA). *See* Title 28 U.S.C. § 2244(d)(1); *Ford v. Moore*, 296 F.3d 1035, 1035 (11th Cir. 2002) ("AEDPA sets forth a one-year statute of limitation for a prisoner to apply for federal habeas relief from the judgment of a state court."). Stinson had one year from December 11, 2006, the date her conviction became final in state court, to file the present petition. Because she filed the present petition on January 28, 2007, this petition is not barred by the statute of limitation.

² This is the date Stinson's petition is signed. *See Houston v. Lack*, 487 U.S. 266, 108 S. Ct. 2379 (1988).

ARGUMENT

A petitioner must exhaust all state remedies available in state court before seeking relief in federal court. *See* 28 U.S.C. § 2254(b)(1)(A). *See also Rhines v. Weber*, 544 U.S. 269, 274, 125 S. Ct. 1528, 1533 (2005); *O'Sullivan v. Boerckel*, 526 U.S. 838, 842, 119 S. Ct. 1728, 1731 (1999); *Henderson v. Campbell*, 353 F.3d 880, 897 (11th Cir. 2003). Thus, until a petitioner's claims have been fully and fairly presented to the state courts for consideration, the federal habeas exhaustion requirement has not been satisfied. *See Thomas v. Crosby*, 371 F.3d 782, 813-14 (11th Cir. 2004). To properly exhaust state remedies, a petitioner must present her issues in a "petition for discretionary review in the state's highest court" even if "the state supreme court rarely grants such petitions and usually confines itself to answering questions of broad significance." *Smith v. Jones*, 256 F.3d 1135, 1138 (11th Cir. 2001). Moreover, when the "petitioner has failed to exhaust state remedies that are no longer available, that failure is a procedural default which will bar federal habeas relief, unless either the cause and prejudice or the fundamental miscarriage of justice exception is established." *Id.*

Because Stinson's petition contains both exhausted and nonexhausted claims, it is deemed a "mixed" petition. *See Kelley v. Secretary for Dept. of Corr.*, 377 F.3d 1317, 1351 (11th Cir. 2004). One of Stinson's claims – she was not

properly arraigned – was raised on direct appeal. (Exhibit B) Though she sought discretionary review by filing a petition for writ of certiorari in the Supreme Court of Alabama, it was dismissed as untimely. (Exhibit H) Thus, this issue is procedurally defaulted. *See Boerckel*, 526 U.S. at 842, 119 S. Ct. at 1731; *Smith*, 256 F.3d at 1138. Her remaining claims are raised for the first time in this Court. Until these claims are fully and fairly presented to the state courts for consideration, the federal habeas exhaustion requirement has not been satisfied. *See* 28 U.S.C. § 2254(c); *Thomas*, 371 F.3d at 813-14.

Furthermore, Stinson still has an available state remedy. She has one year after the issuance of the certificate of judgment in her case – until November 21, 2007 – to file a postconviction petition under the Alabama Rules of Criminal Procedure. *See* Ala. R. Crim. P. 32.2(c). Thus, Stinson is not without recourse in the state courts. Moreover, dismissing Stinson’s petition and requiring her to present these unexhausted claims to the state courts first is not futile because “the limitations period is tolled during the pendency of a ‘properly filed application for State post-conviction or other collateral relief.’” *Rhines*, 544 U.S. at 274-75, 125 S. Ct. at 1533. Therefore, once her claims are exhausted, Stinson may then seek federal review. Because she has failed to afford the state courts a fair opportunity to resolve these issues, and dismissal of Stinson’s mixed petition will not prevent

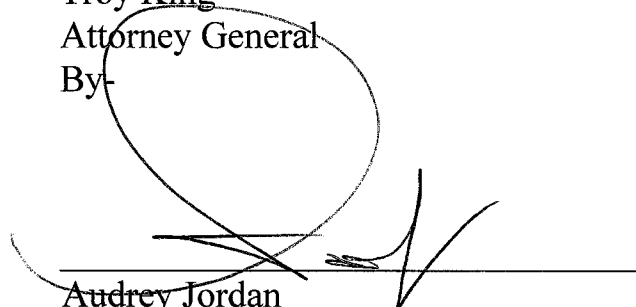
her from seeking federal review, Stinson's petition should be dismissed without prejudice.

CONCLUSION

For the above-stated reasons, this Court should dismiss Stinson's petition without prejudice.

Respectfully submitted,

Troy King
Attorney General
By-



Audrey Jordan
Assistant Attorney General

EXHIBIT LIST

Exhibit A - Copy of the record on direct appeal (165 pages). CC-04-1694; CR-05-0182

Exhibit B - Copy of Stinson's brief on direct appeal. CC-04-1694; CR-05-0182;

Exhibit C - Copy of the State's brief on appeal. CC-04-1694; CR-05-0182;

Exhibit D - Copy of the Alabama Court of Criminal Appeals's memorandum opinion issued on September 22, 2006. CC-04-1694; CR-05-0182;

Exhibit E - Copy of the Alabama Court of Criminal Appeals's order granting Mr. Keith's motion to withdraw. CC-04-1694; CR-05-0182;

Exhibit F - Copy of the Alabama Court of Criminal Appeals's order overruling Stinson's application for rehearing. CC-04-1694; CR-05-0182;

Exhibit G - Copy of the certificate of final judgment. CC-04-1694; CR-05-0182;

Exhibit H - Copy of the Alabama Supreme Court's order dismissing Stinson's petition for certiorari as untimely. CC-04-1694; CR-05-0182; No. 1060338;

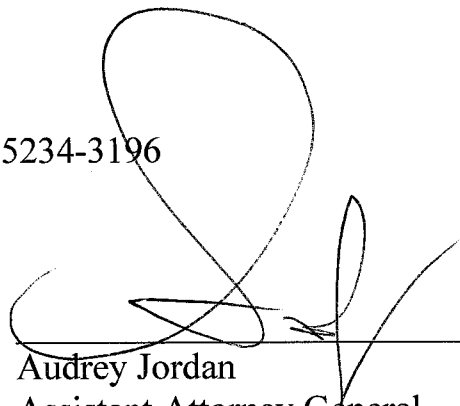
Exhibit I - Copy of the Alabama Supreme Court's order denying Stinson's motion to reinstate her petition for writ of certiorari. CC-04-1694; CR-05-0182; No. 1060338

Exhibit J - Copy of Stinson's petition.

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of May, 2007, I served a copy of the foregoing (including all exhibits) on Stinson, by placing the same in the United States Mail, first class, postage prepaid and addressed as follows:

Rena Dorsey Stinson
AIS #234171
Birmingham WR/CWC
1216 25th Street North
Birmingham, Alabama 35234-3196



Audrey Jordan
Assistant Attorney General

ADDRESS OF COUNSEL:

Office of the Attorney General
Criminal Appeals Division
11 South Union Street
Montgomery, AL 36130
(334) 242-7300

262252/106979

COURT OF CRIMINAL APPEALS NO. _____

CR 05-0182

APPEAL TO ALABAMA COURT OF CRIMINAL APPEALS

FROM

CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

CIRCUIT COURT NO CC 04-1694

CIRCUIT JUDGE TRUMAN HOBBS

Type of Conviction/ Order Appealed From: TOP1 (2 cts) & TOP2

Sentence Imposed: 20 YRS SPLIT TO SERVE 5 YRS EA CT (CTS TO RUN CONCURRENT)

Defendant Indigent: ☒ YES ☐ NO

RENA STINSON

NAME OF APPELLANT

THOMAS M. GOGGANS

834-2511

(Appellant's Attorney)

(Telephone No.)

2030 EAST SECOND STREET

(Address)

MONTGOMERY

AL

36106

(City)

(State)

(Zip Code)

V.

STATE OF ALABAMA

NAME OF APPELLEE

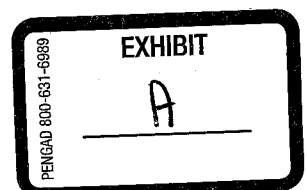
(State represented by Attorney General)

NOTE: If municipal appeal, indicate above, and enter

name and address of municipal attorney below.

df

(For Court of Criminal Appeals Use Only)



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ACR0372 ALABAMA JUDICIAL INFORMATION SYSTEM CASE: CC 2004 001694.00
 PER: REG CASE ACTION SUMMARY
 AGE: 1 CIRCUIT CRIMINAL RUN DATE: 12/14/2004
 IN THE CIRCUIT COURT OF MONTGOMERY JUDGE: TMH

STATE OF ALABAMA VS STINSON RENA
 2265 EAST ABERDEEN DRIVE
 CASE: CC 2004 001694.00 MONTGOMERY, AL 36116 0000

DOB: 10/15/1953 SEX: F RACE: B HT: 5 05 WT: 165 HR: BLK EYES: BRO
 SSN: 424782955 ALIAS NAMES: RENA DORSEY

CHARGE01: THEFT OF PROP 1ST CODE01: TOP1 LIT: THEFT OF PROP TYP: F #: 001
 CHARGE02: THEFT OF PROP 1ST CODE02: TOP1 TYP: F #: 001
 CHARGE03: THEFT OF PROP 1ST CODE03: TOP1 TYP: F #: 001
 CHARGE04: THEFT OF PROP 2ND CODE04: TOP2 TYP: F #: 001
 OFFENSE DATE: AGENCY/OFFICER: 0030100

DATE WAR/CAP ISS: DATE ARRESTED:
 DATE INDICTED: 07/09/2004 DATE FILED: 12/14/2004
 DATE RELEASED: DATE HEARING:
 BOND AMOUNT: \$80,000.00 SURETIES:

DATE 1: DESC: TIME: 0000
 DATE 2: 12/20/2004 DESC: ARRG TIME: 0830 A

TRACKING NOS: GJ 2004 070062 00

DEF/ATY: *Winston Durant* TYPE: *A*

AIS 234171

TYPE:

PROSECUTOR: *B. Hughes*

OTH CSE: GJ200407006200 CHK/TICKET NO: S GRAND JURY: 62
 COURT REPORTER: SID NO: 001361646
 DEF STATUS: JAIL DEMAND: OPER: REG

DATE ACTIONS, JUDGEMENTS, AND NOTES

12-20-04	<i>W. Durant appointed; A's presence received</i>
4-26-05	<i>Still at Doc due to illness TMH</i>
5-2-05	<i>Cynthia Ann May, notice of of appearance, counsel of record</i>
	JUDGEMENT IS HEREBY ENTERED IN ACCORDANCE WITH THE VERDICT OF THE JURY, <i>guilty of TOP1 x2, TOP2;</i>
	<i>Sentencing set 9-19-05 @ 8:30</i>
	<i>Circuit Judge</i>

ACR0369 ALABAMA JUDICIAL INFORMATION CENTER

CASE ACTION SUMMARY
CONTINUATIONCASE: CC 2004 001694.CO
JUDGE ID: TMH

STATE OF ALABAMA

VS

STINSON RENA

DATE

ACTION, JUDGMENTS, CASE NOTES

10-26-05 Clerk's Notice of Appeal to Crim App, AG, DA,
C. May, + J. Shelton - No forms

11/01/05 Crim Appls # CR 05-0182

11/16/05 Cert of final Judgment of Dismissal

12/14/05 Docketing FEE PAID - Appeal Reinstated

State of Alabama Unified Judicial System Form CR-6 Rev. 8/98	<h2 style="margin:0;">COMPLAINT</h2> <p style="margin:0;">(Felonies, Misdemeanors, or Violations - District or Municipal Court)</p>	Warrant Number 2004F00659 <hr/> Case Number
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IN THE _____ DISTRICT _____ COURT OF _____ MONTGOMERY _____, ALABAMA
(Circuit, District, or Municipal) (Name of Municipality or County)

☒ STATE OF ALABAMA
☐ MUNICIPALITY OF MONTGOMERY v. _____ RENA DORSEY STINSON (000156065A) _____
Defendant (NWS Jacket Number)

Before me, the undersigned authority, personally appeared this day the undersigned complainant who, upon first being duly sworn, states on oath that he/she has probable cause for believing, and does believe that _____ RENA DORSEY STINSON _____, Defendant, whose name is otherwise unknown to the complainant, did, prior to the commencement of this action, on or about _____ 04/28/2003 _____ (date of occurrence) commit the offense of _____ THEFT OF PROPERTY, FIRST DEGREE _____ within the _____

☒ County of _____ MONTGOMERY _____

☐ City/Town of _____ or in the police jurisdiction thereof, in that he/she did: (State specific facts here. Continue on a separate sheet of paper if needed.) (select as appropriate):

(a) ☐ knowingly obtain or exert unauthorized control over the follow property, to wit: _____
 the property of, to wit: _____
 and having a value in excess of \$2,500.00 dollars, with the intent to deprive the owner of the said property;

(a) ☒ knowingly obtain, by deception, control over the follow property, to wit: _____ ASSPRTED U.S. CURRENCY DOLLARS _____
 the property of, to wit: _____ EMMA JEAN ANDERSON _____
 and having a value in excess of \$2,500.00 dollars, with the intent to deprive the owner of the said property;

(a) ☐ knowingly obtain or exert unauthorized control over the following property, to wit: _____
 from the person of, to wit: _____
 with the intent to deprive the owner of the said property;

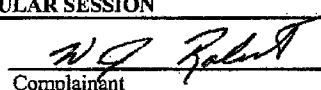
(a) ☐ knowingly obtain, by deception, control over the following property, to wit: _____
 from the person of, to wit: _____
 with the intent to deprive the owner of the said property;

(b) ☐ knowingly obtain or exert unauthorized control over a motor vehicle, to wit: _____
 the property of, to wit: _____
 with the intent to deprive the owner of the said property;

(b) ☐ knowingly obtain, by deception, control over a motor vehicle, to wit: _____
 the property of, to wit: _____
 with the intent to deprive the owner of the said property;
 in violation of _____

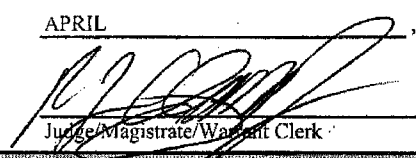
☐ Section _____, Alabama Code 1975.
☐ Municipal Ordinance Number _____ which embraces Section _____ Alabama Code 1975, previously adopted, effective and in force at the time the offense was committed.
☒ Other **ACT 2003-355, ALABAMA LEGISLATURE, 2003 REGULAR SESSION**

Sworn to and Subscribed before me this _____ 15TH _____ day of _____ APRIL _____, 2004 _____


 Complainant

 MPD
 Address

 Telephone Number


 Judge/Magistrate/Warrant Clerk

WITNESSES		
Name	Address	Telephone Number

Additional Witnesses on Reverse Side.

Case # 03-10571Warrant # 2004F-659

**AFFIDAVIT
DISTRICT COURT OF MONTGOMERY ALABAMA**

INSTRUCTIONS: Complete the following information on OFFENSE/OFFENDER

Offense: Theft of Property 1st Degree by Deception

Defendant's Name: B/F Rena Dorsey Stinson **D.O.B.** 10/15/53

Defendant's SSN: 424-78-2955 **Height:** 5'5" **Weight:** 165

Defendant's Address: 2265 E. Aberdeen Dr. Montgomery, AL. 36116

Date & Time of Offense: Monday 04/28/03 @ 1245 Hours

Place of Occurrence: 320 Eastdale Cir. Montgomery, AL. 36117 (Regions Bank)

Person or Property Attacked: Emma Jean Anderson

How Attacked: _____

Damage Done or Property Attacked: Assorted U.S. Currency Dollars

Value of Property: \$3,500.00

Details of Offense:

On the listed date and time the defendant did knowingly obtain by deception control over the complainant's listed property. The defendant was positively identified through a photographic lineup.

This offense did occur in the City of Montgomery, Montgomery County, and is in violation of Title 13A-8-3 against the peace and dignity of the State of Alabama.

I make this affidavit for the purpose of securing a warrant against the said B/F Rena Dorsey Stinson. I understand that I am instituting a criminal proceeding and cannot drop this case. I further understand that if any of the facts are untrue, I may, in addition to any other punishment provided by law, be taxed with court costs in this proceeding.

Sworn to and subscribed before me
this 15 day of April 2004.


Judge - Clerk - Magistrate


Complainant

WITNESSES: (Name, Address, Telephone Number)

- 1) Emma Jean Anderson, 1185 Hall Ln. Montgomery, AL. 36117, 334-215-7256
- 2) Det. W.J. Roberts #1398, MPD, 334-241-2963

CJ NO. 0062

THE STATE OF ALABAMA

Rena Dorsey Stinson
B/F HT: 5'5" WT: 165 DOB: 10/15/53

2265 East Aberdeen Drive

SID. NO. 01361646 ARREST DATE _____
FOR

TOP 1 (3 cts)

TOP 11

A TRUE BILL

Jorge J. White

Foreperson of Grand Jury

BAIL IN THIS CASE IS FIXED AT

\$ 80,000

Richard A. Montgomery
Judge of the Circuit Court of Montgomery County

CC NO. _____

TMH

SEAL 803

GRAVES

MLH

Presented in open Court by the Foreperson of

the Montgomery County Grand Jury in the presence of 11 other members of the Grand Jury and filed this 9th day of July, 2007

Richard A. Montgomery

Clerk of the Circuit Court of Montgomery County

WITNESSES

Emma Jean Anderson
1185 Hall Ln 36117

Dhavalreddy Devi
6531 E Woodglenn Dr

Carol Ray
6021 Arbor Glenn Dr

W.J. Roberts
WK:MPD

5 Avacael Williams
285 Sylvest Dr Apt 225

THE STATE OF ALABAMA
MONTGOMERY COUNTY

Circuit Court of Montgomery County, July Term, A.D. 2004

COUNT I: The Grand Jury of said County charge that, before the finding of this indictment,

RENA DORSEY STINSON, alias
RENA D. STINSON, alias
RENA DORSEY,

whose name is otherwise unknown to the Grand Jury, did knowingly obtain or exert unauthorized control over, or did knowingly obtain by deception control over lawful currency and/or coinage of the United States of America, a better description of which is unknown to the Grand Jury, of some value greater than \$2,500.00, the property of Emma Anderson, with intent to deprive the owner of the property, in violation of Section 13A-8-3 of the Code of Alabama, against the peace and dignity of the State of Alabama.

COUNT II: The Grand Jury of said County further charge that, before the finding of this indictment,

RENA DORSEY STINSON, alias
RENA D. STINSON, alias
RENA DORSEY,

whose name is otherwise unknown to the Grand Jury, did knowingly obtain or exert unauthorized control over, or did knowingly obtain by deception control over lawful currency and/or coinage of the United States of America, a better description of which is unknown to the Grand Jury, of some value greater than \$2,500.00, the property of Carol Ray, with intent to deprive the owner of the property, in violation of Section 13A-8-3 of the Code of Alabama, against the peace and dignity of the State of Alabama.

COUNT III: The Grand Jury of said County further charge that, before the finding of this indictment,

RENA DORSEY STINSON, alias
RENA D. STINSON, alias
RENA DORSEY,

whose name is otherwise unknown to the Grand Jury, did knowingly obtain or exert unauthorized control over, or did knowingly obtain by deception control over lawful currency and/or coinage of the United States of America, a better description of which is unknown to the Grand Jury, of some value greater than \$2,500.00, the property of Dhawireddy Devi, with intent to deprive the owner of the property, in violation of Section 13A-8-3 of the Code of Alabama, against the peace and dignity of the State of Alabama.

COUNT IV: The Grand Jury of said County further charge that, before the finding of this indictment,

RENA DORSEY STINSON, alias
RENA D. STINSON, alias
RENA DORSEY,

whose name is otherwise unknown to the Grand Jury, did knowingly obtain or exert unauthorized control over, or did knowingly obtain by deception control over lawful currency and/or coinage of the United States of America, a better description of which is unknown to the Grand Jury, of some value greater than \$500.00, the property of Avaceal Williams, with intent to deprive the owner of the property, in violation of Section 13A-8-4 of the Code of Alabama,
against the peace and dignity of the State of Alabama.

Elmer C. Broder
District Attorney, Fifteenth Judicial Circuit of Alabama

TMH

IN THE CIRCUIT COURT FOR THE FIFTEENTH JUDICIAL CIRCUIT

MONTGOMERY COUNTY, ALABAMA

STATE OF ALABAMA,
Plaintiff,

V

Stinson, Rena Dorsey
Defendant.

CC 04-11694 TMH

NOTICE OF
DISCOVERY TO DEFENDANT,
INTENT TO USE PRIOR CONVICTIONS,
INTENT TO INVOKE SENTENCING ENHANCEMENTS,
INTENT TO OFFER PROOF BY A CERTIFICATE OF ANALYSIS, and
MOTION FOR DISCOVERY BY THE STATE

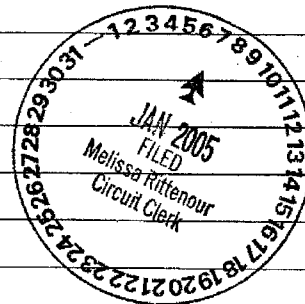
COMES NOW the State of Alabama, by and through its District Attorney for the Fifteenth Judicial Circuit, Eleanor I. Brooks, and gives notice as to the following:

☒ 1. Pursuant to Rule 16.1, A.R.Cr.P., and as otherwise required by law, all available discovery has been provided or made available to the Defendant's counsel of record. Physical evidence, if any, is in the custody of the investigating law enforcement agency or the Alabama Department of Forensic Sciences. Arrangements to inspect physical evidence may be made by contacting the undersigned.

The State has furnished a copy of the discovery to Defense Counsel. This material is page numbered sequentially from 000001 to 129. (Pages _____ have not been provided as they are either work product and/or NCIC, which cannot be provided pursuant to state law, unless ordered by the Court.) The State of Alabama considers this discovery material to have been received in its entirety by Defense Counsel unless promptly notified in writing of any discrepancies.

☒ 2. The State intends to use at trial any and all prior convictions, crimes, wrongs, or acts of the Defendant for those uses permitted by Rules 404(b) and 609 of the A.R.E., and as otherwise allowed by law. The State is presently aware of, and intends to use, the following:

<u>TDP I</u>	<u>1945</u>
<u>TDP I</u>	<u>1997</u>
<u>TDP I</u>	<u>2003</u>



☒ 3. The State intends to invoke all sentencing enhancements required or permitted by law, including, the Habitual Felony Offender Act based on any applicable felony convictions, known and/or any convictions which may subsequently be discovered and/or disclosed. And, if applicable, the following:

- ☐ Enhancement for use of firearm or deadly weapon. Minimum term of imprisonment of _____ years.
- ☐ Five Year Enhancement for Sale of Drugs within three (3) miles of a school, 13A-12-250.
- ☐ Five Year Enhancement for Sale of Drugs within three (3) miles of housing project, 13A-12-270.
- ☐ \$1,000.00 Fine, 13A-12-281.
- ☐ \$2,000.00 Fine, 13A-12-281.
- ☐ Suspension of Driver's License, 13A-12-290.
- ☐ Five Year Enhancement for Possession of Firearm, 13A-12-231(13).

☐ 4. Pursuant to Sections 12-21-300 through 303, Code of Alabama, written notice is hereby given of the State's intent to offer proof by a certificate of analysis in lieu of direct testimony. The certificate of analysis is from the Alabama Department of Forensic Sciences and is included in the provided discovery material.

☒ 5. Pursuant to rules 16.2 and 16.4(c), A.R.Cr.P., and as otherwise required by law, the State requests a copy of all discovery to which it is entitled and hereby moves this Honorable Court for an order granting same to the State.

Respectfully submitted, this 7 day of January, 2004.

ELEANOR I. BROOKS
District Attorney

by:

MA
MIKE GRAVES (GRA110)
Deputy District Attorney

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above and foregoing was served upon the Honorable W. Durant, Counsel for the Defendant, by hand delivery; or by placing same in the appropriate Courthouse Box; or by posting same in the United States mail, postage prepaid and properly addressed to said Counsel; on this the 7 day of January, 2004.

by:

MA
MIKE GRAVES (GRA110)
Deputy District Attorney

STATE OF ALABAMA

VS

Rena D. Stinson

IN THE CIRCUIT COURT OF

Montgomery
County, Alabama

95-1125
00-557✓
03-1574✓
03-5081✓
04-1694

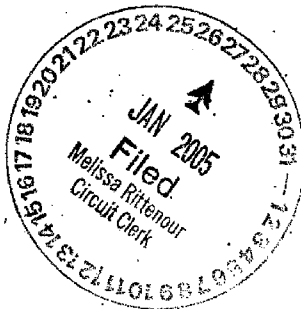
MOTION FOR A SPEEDY TRIAL

Comes now, Rena D. Stinson, defendant in the above styled case and would move this Honorable Court for a trial at the earliest date possible date.

I have been notified by the Alabama Department of Corrections that a detainer has been placed in my institutional file and I make this motion in order to expeditiously dissolve said detainer.

Respectfully submitted this 19 day of January, 2005.

Rena D. Stinson
Defendant signature



AIS # 234171 Dorm # 9
Julia Tutwiler Prison for Women
8966 U.S. Highway 231 North
Wetumpka, Alabama 36092-5343

Also, Please let me know what charges are pending Against me. The victims And Amounts And any other information you can send me.

Thanks

cc- 2004-1694 - Arraignment Date was 12/30/04
Case Action summary enclosed

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

STATE OF ALABAMA
Plaintiff,

v.

RENA STINSON
Defendant.

CASE NO. CC 2005-1694

MOTION TO CONTINUE

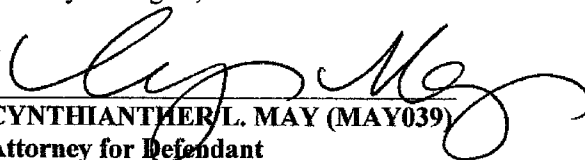


COMES NOW, the Plaintiff, **RENA STINSON**, by and through her attorney of record, **CYNTHIAN L. MAY** and files this *Motion to Continue* in the above-referenced matter and will show unto the Court the following:

1. This matter is set for trial on August 15, 2005.
2. Counsel has relocated to Mobile County, Alabama ; in June 2005, prior to counsel's relocation, said counsel notified the Court of her relocation via U. S. mail.
3. On July 7, 2005 or thereabout, counsel contacted the Court via telephone and received verification of the Court's receipt of counsel's relocation letter.
4. Counsel was not notified by the Court, of Mrs. Stinson's status or trial date.
5. Counsel became aware of Mrs. Stinson's court dates after receiving a return phone call from Brandon Hughes, the prosecutor.

WHEREFORE, the premises considered, the Defendant prays that this Honorable Court will set this matter to a later date, which will allow time for defendants transport and counsel preparation for trial.

Respectfully submitted this the 10th day of August, 2005.


CYNTHIAN L. MAY (MAY039)
Attorney for Defendant

OF COUNSEL:
COCHRAN LAW FIRM P.C.
401 Church Street
Mobile, Alabama 36602
Telephone: (251) 433-6500
Facsimile: (251) 434-9995

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing on the following by placing a copy of the same in the United States mail, postage prepaid and affixed on this, 10th day of August 2005.

Montgomery County District Attorney Office
Attention: Brandon Hughes
251 South Lawrence Street
Post Office Box 1667
Montgomery, Alabama 36102-1667


CYNTHIA L. MAY

OF COUNSEL:

COCHRAN LAW FIRM P.C.
401 Church Street
Mobile, Alabama 36602
Telephone: (251) 433-6500
Facsimile: (251) 434-9995

State of Alabama
Unified Judicial System
Form C-50 Rev 6/88

JURY VERDICT

Case Number
CC-04-1694 TMH

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

Plaintiff: State of Alabama v. Defendant: RENA STINSON

COUNT I:

☒ We, the Jury, find the Defendant GUILTY of Theft of Property in the First Degree, as to Emma Anderson, as charged in the indictment.

OR

☐ We, the Jury, find the Defendant NOT GUILTY.

COUNT II:

☒ We, the Jury, find the Defendant GUILTY of Theft of Property in the First Degree, Carol Ray, as charged in the indictment.

OR

☐ We, the Jury, find the Defendant NOT GUILTY.

COUNT IV:

☒ We, the Jury, find the Defendant GUILTY of Theft of Property in the Second Degree, as to Avaceal Williams, as charged in the indictment.

OR

☐ We, the Jury find the Defendant NOT GUILTY

RECEIVED
8-23-05
CIRCUIT COURT CLERK

MICHAEL T. MAYER
Name of Foreperson (please print)

Foreperson Signature

Date filed 8-23-05

✓
T/MAY

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

STATE OF ALABAMA
Plaintiff,

v.

RENA STINSON
Defendant.

*
*
*
*
*
*
*

CASE NO. CC 2004-1694

MOTION TO WITHDRAW

COMES NOW Cynthianther L. May and respectfully moves this Honorable Court for leave to withdraw as counsel for Defendant, RENA STINSON, and as grounds therefore would show the following:

1. Counsel has been notified that the above-named defendant has retained alternative legal representation.

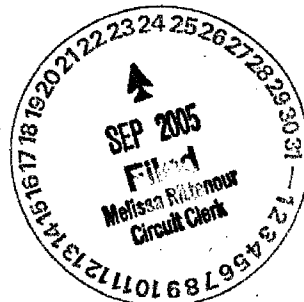
WHEREFORE, the premises considered, counsel prays that the Court will grant this motion.

Respectfully submitted this 21st day of September 2005.


CYNTHIANTHER L. MAY (MAY 039)

OF COUNSEL:
COCHRAN LAW FIRM
401 Church Street
Mobile, Alabama 36604
Telephone (251) 433-6500
Facsimile (251) 434-9995

GRANTED 1/9/06
TRUMAN M. HOBBS, JR.
CIRCUIT JUDGE



CERTIFICATE OF SERVICE

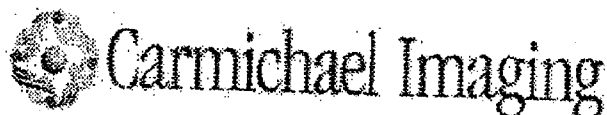
I do hereby certify that I have on this the 21st day of September, 2005, served a copy of the foregoing notice on the following by United States Mail, first class, postage prepaid, to the following:

Montgomery County District Attorney Office
Attention: Brandon Hughes
251 South Lawrence Street
Post Office Box 1667
Montgomery, Alabama 36102-1667

Mrs. Rena Stinson
6624 Stable Gate Court
Montgomery, Alabama 36116

Attorney Thomas Goggans
2030 East 2nd Street
Montgomery, Alabama 36106-1617


CYNTHIA L. MAY



PATIENT NAME
STINSON, RENA

ACCOUNT NO
74102

AGE/SEX
51/F

MPI NUMBER
19583

REFERRING PHYSICIAN:
HARRY BARNES MD
4145 CARMICHAEL ROAD
MONTGOMERY AL 36106

DATE OF BIRTH
10/15/53

DATE OF SERVICE
10/04/05

10/04/05: CT CERVICAL W/O CONTRAST

ELECTRONICALLY VERIFIED BY:
GARY W. SCOTT, MD 10/04/2005

GWS/HS

*** APPENDED REPORT ***

ADDENDUM:

On sagittal reconstructed images vertebral heights and alignment are maintained with slight reversal of the usual lordotic curvature. Also noted on these reconstructed images is some sclerosis in the T5 vertebra. This may represent a second metastatic lesion.

CONCLUSION:

THERE IS AN ADDITIONAL SCLEROTIC FOCUS AT T5 WHICH MAY REPRESENT AN ADDITIONAL METASTATIC LESION.

REVIEWED AND INTERPRETED BY:
GARY W. SCOTT, MD

ELECTRONICALLY VERIFIED BY:
GARY W. SCOTT, MD 10/04/2005

GWS/HS

RECEIVED

10-24-05

CIRCUIT COURT CLERK

Dictation Date/Time: 10/04/05 12:23
Ordered Date: 09/27/05 12:00

STINSON, RENA D
00111963
Page 2



Carmichael Imaging

4147 Carmichael Road Montgomery, AL 36106-2801 334-387-1100



Carmichael Imaging

4147 Carmichael Road Montgomery, AL 36106-2801 334-387-1100

PATIENT NAME STINSON,RENA	ACCOUNT NO 74102	AGE/SEX 51/F	MPI NUMBER 19583
REFERRING PHYSICIAN: HARRY BARNES MD 4145 CARMICHAEL ROAD MONTGOMERY AL 36106	DATE OF BIRTH 10/15/53	DATE OF SERVICE 10/04/05	

COPY TO:

10/04/05: CT STERNUM W/O CONTRAST

EXAM INDICATIONS:

CLINICAL HISTORY: Breast cancer.

COMPARISON: Correlation is made with PET scan report from September 26 which described some activity in the sternum.

FINDINGS: There is a mottled heterogeneous appearance of the lower sternum with patchy areas of both lysis and sclerosis noted on 06/10 on image #44 through 63 and suggests metastatic involvement throughout most of the lower sternum. The upper aspect of the sternum is intact. Visualized portions of the clavicles and anterior ribs are also intact. Pericardial effusion is also noted. If not previously performed chest CT may be of benefit. Best visualized on the sagittal reconstructions of the sternum is what appears to be complete lysis of the lower 25% with complete destruction of the bone in this area.

CONCLUSION:
EXTENSIVE LYTIC AND SCLEROTIC LESION THROUGHOUT THE STERNUM WITH BONY DESTRUCTION IN THE LOWER 25% OF THE BONE. FINDINGS CONSISTENT WITH METASTATIC DISEASE.

REVIEWED AND INTERPRETED BY:
GARY W. SCOTT, MD

ELECTRONICALLY VERIFIED BY:
GARY W. SCOTT, MD 10/04/2005

GWS/HS

Outpatient Date/Time: 10/04/05 10:34
Outpatient Date: 05/07/05 11:55

STINSON,RENA D
Exam #: 050011096
Page 1

9.4

0096882488

0096882488

0096882488

Oct 16 05 03:50p

stinson

3342883600

p. 5



PATIENT NAME
STINSON, RENA

ACCOUNT NO
74102

AGE/SEX
51/F

MPI NUMBER
19583

REFERRING PHYSICIAN:
HARRY BARNES MD
4145 CARMICHAEL ROAD
MONTGOMERY AL 36106

DATE OF BIRTH
10/15/53

DATE OF SERVICE
10/04/05

10/04/05: CT CERVICAL W/O CONTRAST

ELECTRONICALLY VERIFIED BY:
GARY W. SCOTT, MD 10/04/2005

GWS/HS

*** APPENDED REPORT ***

ADDENDUM:

On sagittal reconstructed images vertebral heights and alignment are maintained with slight reversal of the usual lordotic curvature. Also noted on these reconstructed images is some sclerosis in the T5 vertebra. This may represent a second metastatic lesion.

CONCLUSION:

THERE IS AN ADDITIONAL SCLEROTIC FOCUS AT T5 WHICH MAY REPRESENT AN ADDITIONAL METASTATIC LESION.

REVIEWED AND INTERPRETED BY:
GARY W. SCOTT, MD

A handwritten signature, likely of Gary W. Scott, MD, in dark ink.

Dictation Date/Time: 10/04/05 10:23
Ordered Date: 09/27/05 12:00

STINSON, RENA D
Exam #: E-00111563
Page 2

Oct 16 05 03:52p

stinson

3342883800

p. 7



Carmichael Imaging

4147 Carmichael Road Montgomery, AL 36106-2801 334-387-1100

PATIENT NAME
STINSON, RENA

ACCOUNT NO
74155

AGE/SEX
51/F

MPI NUMBER
19583

REFERRING PHYSICIAN:
HARRY BARNES MD
4145 CARMICHAEL ROAD
MONTGOMERY AL 36106

DATE OF BIRTH
10/15/53

DATE OF SERVICE
10/04/05

COPY TO:

10/04/05: CT BRAIN W/WO CONTRAST

EXAM INDICATIONS:

CLINICAL HISTORY: Breast cancer.

PROCEDURE: 4.5 mm axial scans were obtained through the brain before and after the administration of 50 cc of Omnipaque.

FINDINGS: The brain has normal structure and density without evidence of mass, hemorrhage, or abnormal enhancement. The ventricles are normal size and configuration. The surrounding bony and soft tissue structures are unremarkable.

IMPRESSION:

NEGATIVE UNENHANCED AND ENHANCED HEAD CT.

REVIEWED AND INTERPRETED BY
GARY W. SCOTT, MD

ELECTRONICALLY VERIFIED BY:
GARY W. SCOTT MD 10/04/2005

CWS/HIS

Dictation Date/Time: 10/04/05 10:22
Ordered Date: 09/27/05 15:21

STINSON, RENA D
Exam #: E-00112054
Page 1

10-5-05 JW



4147 Carmichael Road Montgomery, AL 36106-2801 334-387-1100

PATIENT NAME
STINSON, RENAACCOUNT NO
74102AGE/SEX
51/FMPI NUMBER
19583REFERRING PHYSICIAN:
HARRY BARNES MD
4145 CARMICHAEL ROAD
MONTGOMERY AL 36106DATE OF BIRTH
10/15/53DATE OF SERVICE
10/04/05

COPY TO:

10/04/05: CT CERVICAL W/O CONTRAST

EXAM INDICATIONS:

*** SEE APPENDED REPORT. IMPRESSIONS MAY HAVE CHANGED. ***

CLINICAL HISTORY: Breast cancer

COMPARISON: Correlation is made with PET scan report from September 26. PET scan described activity in the lower cervical spine and looked suspicious for metastatic disease.

TECHNIQUE: 5 mm axial scans are obtained through the cervical spine.

FINDINGS: There is a lytic lesion in the left lamina of T1 seen on image #45. This is consistent with the activity described on PET scan and suspicious for metastatic lesion. No other destructive lesions are identified within the cervical spine. There is spondylotic change present throughout with some osteophyte formation and facet hypertrophy at several levels. There is some encroachment of the left lateral recess at C4-5 due to focal spur and what appears to be a disc bulge. Mild spinal stenosis is also noted at C5-6 due to disc bulge and osteophyte formation. No other significant areas of encroachment are identified.

CONCLUSION:

1. FOCAL LYTIC LESION IN THE LEFT LAMINA OF T1. THIS IS SUSPICIOUS FOR METASTATIC LESION.
2. DEGENERATIVE CHANGES THROUGHOUT THE CERVICAL SPINE WITH A DISC BULGE AND OSTEOPHYTE COMPLEX. THERE IS SOME ENCROACHMENT IN THE LEFT LATERAL RECESS AT C4-5 AND CENTRALLY AT C5-6.

REVIEWED AND INTERPRETED BY:
GARY W. SCOTT, MDDictation Date/Time: 10/04/05 10:23
Ordered Date: 09/27/05 12:00STINSON, RENA D
Exam #: E-00111963
Page 1



PATIENT NAME
STINSON, RENA

ACCOUNT NO
73732

AGE/SEX
51/F

MPI NUMBER
19583

REFERRING PHYSICIAN:
HARRY BARNES MD
4145 CARMICHAEL ROAD
MONTGOMERY AL 36106

DATE OF BIRTH
10/15/53

DATE OF SERVICE
09/26/05

09/26/05: PET SKULL BASE TO MID-THIGH (78812)

IMPRESSION:

1. FINDINGS CONSISTENT WITH DEVELOPMENT OF METASTATIC DISEASE IN THE RIGHT AXILLA, HILAR REGIONS AND MEDIASTINUM. THERE IS A SUSPICIOUS LEFT SUPRACLAVICULAR NODE AS WELL.
2. FINDINGS VERY WORRISOME FOR A MALIGNANT LEFT PLEURAL EFFUSION.
3. FINDINGS VERY WORRISOME FOR DEVELOPMENT OF BONY METASTATIC DISEASE IN THE LOWER CERVICAL SPINE AND IN THE STERNUM.

REVIEWED AND INTERPRETED BY:
CYNTHIA LORINO, MD

ELECTRONICALLY VERIFIED BY:
CYNTHIA LORINO, MD 09/27/2005

CLJ/B

Dictation Date/Time: 09/27/05 09:03
Ordered Date: 09/22/05 08:08

STINSON, RENA D
Exam #: E-00111403
Page 2



Carmichael Imaging

PATIENT NAME
STINSON, RENA

ACCOUNT NO
73732

AGE/SEX
51/F

MPI NUMBER
19583

REFERRING PHYSICIAN:
HARRY BARNES MD
4145 CARMICHAEL ROAD
MONTGOMERY AL 36106

DATE OF BIRTH
10/15/53

DATE OF SERVICE
09/26/05

09/26/05: PET SKULL BASE TO MID-THIGH (78812)

IMPRESSION:

1. FINDINGS CONSISTENT WITH DEVELOPMENT OF METASTATIC DISEASE IN THE RIGHT AXILLA, HILAR REGIONS AND MEDIASTINUM. THERE IS SUSPICIOUS LEFT SUPRACLAVICULAR NODE AS WELL.
2. FINDINGS VERY WORRISOME FOR A MALIGNANT LEFT PLEURAL EFFUSION.
3. FINDINGS VERY WORRISOME FOR DEVELOPMENT OF BONY METASTATIC DISEASE IN THE LOWER CERVICAL SPINE AND IN THE STERNUM.

REVIEWED AND INTERPRETED BY:
CYNTHIA LORINO, MD

Dictation Date/Time: 09/27/05 09:03
Ordered Date: 09/22/05 08:08

STINSON, RENA D
Exam #: E-00111403
Page 2

ACR359

ALABAMA JUDICIAL DATA CENTER
MONTGOMERY COUNTY
TRANSCRIPT OF RECORD
CONVICTION REPORT

CC 2004 001694.00 01
TRUMAN M HOBBS

CIRCUIT COURT OF MONTGOMERY COUNTY

COURT ORI: 003045 J

STATE OF ALABAMA VS.
STINSON RENA DORSEY
6624 STABLE GATE COURT
MONTGOMERY AL 36116

ALIAS: RENA DORSEY
ALIAS:

DC NO: GJ 2004 070062.00
G J: 62
SSN: 424782955
SID: 001361646
AIS: 234171

DOB: 10/15/1953 SEX: F HT: 5 05 WT: 165 HAIR: BLK EYE: BRO
RACE: ()W (X)B ()O COMPLEXION: AGE: FEATURES:

DATE OFFENSE: 00/00/0000 ARREST DATE: 00/00/0000 ARREST ORI: 0030100

CHARGES & CONV	CITES	CT CL	COURT ACTION	CA DATE
THEFT OF PROP 1ST	13A-008-003	01 B	CONVICTED	08/23/2005
THEFT OF PROP 1ST	13A-008-003	01 B	CONVICTED	08/23/2005
THEFT OF PROP 1ST	13A-008-003	01 B	CONVICTED	08/23/2005

JUDGE: TRUMAN M HOBBS

PROSECUTOR:

PROBATION APPLIED GRANTED DATE REARRESTED DATE REVOKED DATE
(X)Y()N 08232005 ()Y()N ()Y()N ()Y()N

15-18-8, CODE OF ALA 1975 IMPOSED SUSPENDED TOTAL JAIL CREDIT
(X)Y()N CONFINEMENT: 05 00 000 15 00 000 20 00 000 00 00 337
PROBATION : 05 00 000 05 00 000

DATE SENTENCED: 10/24/2005 SENTENCE BEGINS: 10/24/2005

PROVISIONS	COSTS/RESTITUTION	DUE	ORDERED
PENITENTIARY	RESTITUTION	\$0.00	\$0.00
SPLIT SENTENC	ATTORNEY FEE	\$0.00	\$0.00
	CRIME VICTIMS	\$0.00	\$0.00
	COST	\$0.00	\$0.00
	FINE	\$0.00	\$0.00
	MUNICIPAL FEES	\$0.00	\$0.00
	DRUG FEES	\$0.00	\$0.00
	ADDTL DEFENDANT	\$0.00	\$0.00
	DA FEES	\$0.00	\$0.00
	COLLECTION ACCT	\$0.00	\$0.00
	JAIL FEES	\$0.00	\$0.00
	TOTAL	\$0.00	\$0.00

APPEAL DATE SUSPENDED AFFIRMED REARREST
()Y()N ()Y()N ()Y()N ()Y()N

REMARKS:

THIS IS TO CERTIFY THAT THE
ABOVE INFORMATION WAS EXTRACTED
FROM OFFICIAL COURT RECORDS
AND IS TRUE AND CORRECT.

MELISSA RITTENOUR(CC)

10/26/2005

OPERATOR: REW
PREPARED: 10/26/2005

ACR371

ALABAMA JUDICIAL DATA CENTER
 NOTICE OF APPEAL TO THE ALABAMA COURT OF CRIMINAL APPEALS
 BY THE TRIAL COURT CLERK
 IN THE CIRCUIT COURT OF MONTGOMERY COUNTY
 STATE OF ALABAMA VS STINSON RENA DORSEY JUDGE: TRUMAN M HOBBS

APPEAL DATE: 10/24/2005

INDIGENCY STATUS:

GRANTED INDIGENCY STATUS AT TRIAL COURT:

APP. TRIAL COUNSEL PERMITTED TO W/D ON APPEAL:

INDIGENT STATUS REVOKED ON APPEAL:

INDIGENT STATUS GRANTED ON APPEAL:

_____	YES	___X___	NO
_____	YES	___X___	NO
_____	YES	___X___	NO
<u> X </u>	YES	___X___	NO

DEATH PENALTY: NO

APPEAL TYPE: STATE CONVICTION

THIS IS AN APPEAL FROM A CONVICTION.

DATE OF CONVICTION: 08/23/2005

DATE OF SENTENCE: 10/24/2005

YOUTHFUL OFFENDER STATUS: DENIED

CO/CASE NUMBER: 03/CC 2004 001694.00

CODE: TOP1 CONVICTION: THEFT OF PROP 1S

ACTION: CONVICTED

STATUTE: 13A-008-003

CODE: TOP1 CONVICTION: THEFT OF PROP 1S

ACTION: CONVICTED

STATUTE: 13A-008-003

CODE: TOP1 CONVICTION: THEFT OF PROP 1S

ACTION: CONVICTED

STATUTE: 13A-008-003

SENTENCE: CONF: 20 YRS 00 MOS 000 DAYS

SENTENCE: PROB: 05 YRS 00 MOS 000 DAYS

LIFE: NO

LIFEWD: NO

POST-JUDGMENT MOTIONS FILED:

DT FILED

DT DENIED

CON BY AGREE

___ MOTION FOR NEW TRIAL

___ MOTION FOR JUDG. OF ACQUIT

___ MOTION TO W/D GUILTY PLEA

___ MOTION FOR ATTY TO W/DRAW

___ OTHER

COURT REPORTER (S):

ADDRESS:

SHELTON, JUDY

JUDGE TRUMAN M HOBBS JR

MONTGOMERY, AL 36104

APPELLATE COUNSEL #1:

ADDRESS:

MAY CYNTHIAN LASHON

207 MONTGOMERY STREET

SUITE 602

MONTGOMERY

334-262-8051, AL 36104

PHONE NUMBER:

APPELLATE COUNSEL #2:

ADDRESS:

PHONE NUMBER:

APPELLANT (PRO SE):

ADDRESS:

STINSON RENA DORSEY

6624 STABLE GATE COURT

MONTGOMERY, AL 361160000

234171

AIS #:

APPELLEE (IF CITY APPEAL):

ADDRESS:

I CERTIFY THAT THE INFORMATION PROVIDED
 ABOVE IS ACCURATE TO THE BEST OF MY
 KNOWLEDGE AND I HAVE SERVED A COPY OF
 THIS NOTICE OF APPEAL ON ALL PARTIES TO
 THIS ACTION ON THIS 26 DAY OF OCT, 2005

OPERATOR: REW
 PREPARED: 10/26/2005

Melissa Littenour
 CIRCUIT COURT CLERK

FROM: CARTER LAW FIRM

(WED) SEP 21 2005 23:11/ST. 23:10/No. 6818361773 P 3

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

STATE OF ALABAMA
Plaintiff,

v.

RENA STINSON
Defendant.

*
*
*
*
*
*
*

CASE NO. CC 2004-1694

MOTION TO WITHDRAW

COMES NOW Cynthia L. May and respectfully moves this Honorable Court for leave to withdraw as counsel for Defendant, **RENA STINSON**, and as grounds therefore would show the following:

1. Counsel has been notified that the above-named defendant has retained alternative legal representation.

WHEREFORE, the premises considered, counsel prays that the Court will grant this motion.

Respectfully submitted this 21st day of September 2005.


CYNTHIA L. MAY (MAY 039)

OF COUNSEL:
COCHRAN LAW FIRM
401 Church Street
Mobile, Alabama 36604
Telephone (251) 433-6500
Facsimile (251) 434-9995

FROM: CARTER LAW FIRM

(WED) SEP 21 2005 23:12/ST. 23:10/No. 6818361773 P 4

CERTIFICATE OF SERVICE

I do hereby certify that I have on this the 21st day of September, 2005, served a copy of the foregoing notice on the following by United States Mail, first class, postage prepaid, to the following:

Montgomery County District Attorney Office
Attention: Brandon Hughes
251 South Lawrence Street
Post Office Box 1667
Montgomery, Alabama 36102-1667

Mrs. Rena Stinson
6624 Stable Gate Court
Montgomery, Alabama 36116

Attorney Thomas Goggans
2030 East 2nd Street
Montgomery, Alabama 36106-1617


CYNTHIA L. MAY

TMH
DENIED 1/9/06

DATE
TRUMAN M. HOBBS, JR.
CIRCUIT JUDGE

IN THE CIRCUIT COURT OF
MONTGOMERY COUNTY, ALABAMA

STATE OF ALABAMA)

VS.)

RENA DORSEY STINSON)

CASE NO. CC-2004-1694-TMH




MOTION FOR JUDGMENT OF ACQUITTAL

Comes now Defendant Rena Dorsey Stinson, by and through counsel, moves this Court to grant a judgment of acquittal on each count of conviction on the following separate and several grounds:

1. The State of Alabama failed to prove a *prima facie* case.
2. The State of Alabama failed to elicit sufficient evidence to sustain convictions.
3. The evidence was insufficient to support a findings of guilt.
4. There was insufficient evidence from which a jury could by fair inference find Defendant Rena Dorsey Stinson guilty.

5. "The United States Constitution prohibits conviction of any person except upon proof beyond a reasonable doubt. Jackson v. Virginia, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979), citing, In re Winship, 397 U.S. 358, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970). Winship, 397 U.S. 358 presupposes as an essential element of due process guaranteed by the Fourteenth Amendment to the United States Constitution that no person shall be made to suffer the onus of a criminal conviction except upon sufficient proof – defined as evidence necessary to convince a trier of fact beyond a reasonable doubt of the existence of every element of the offense. Jackson, 443 U.S. at 316. If a

rational fact finder could not have concluded beyond a reasonable doubt the existence of every element of the offense, a conviction must be deemed violative of due process guaranteed by the Fourteenth Amendment to the United States Constitution. Jackson, 443 U.S. at 317. In this case, a rational fact finder could not have concluded beyond a reasonable doubt the existence of every element of the offense. Thus, a conviction in this case violates due process guaranteed by the Fourteenth Amendment to the United States Constitution.


Thomas M. Goggans
Ala. S.J.I.S. GOG001
2030 East Second Street
Montgomery AL 36106
PH: 334.834.2511
FX: 334.834.2512

Attorney for Defendant
Rena Dorsey Strickland

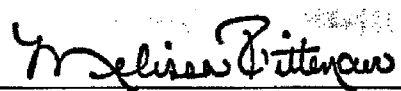
CERTIFICATE OF SERVICE

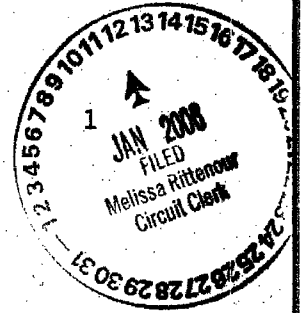
I hereby certify that I have served a copy of the foregoing upon:

Eleanor I. Brooks
Office of the District Attorney
P.O. Box 1667
Montgomery AL 36102

by placing the same in the United States mail, first class postage prepaid and properly addressed on this the 21st day of November, 2005.


Thomas M. Goggans

State of Alabama Unified Judicial System From ARAP - 14 Rev. 11 / 91	CERTIFICATE OF COMPLETION AND TRANSMITTAL OF RECORD ON APPEAL BY TRIAL CLERK	Appellate Case Number _____
TO: THE CLERK OF THE COURT OF CRIMINAL APPEALS OF ALABAMA		DATE OF NOTICE OF APPEAL: 10-24-05
APPELLANT RENA STINSON		
v. STATE OF ALABAMA		
<p>I certify that I have this date completed and transmitted herewith to the appellate court the record on appeal by assembling in (a single volume of <u>30</u> pages) (_____ volumes of 200 pages each and one volume of _____ pages) the clerk's record and the reporter's transcript and that one copy each of the record on appeal has been served on the defendant and the Attorney General of the State of Alabama for the preparation of brief.</p> <p>I certify that a copy of this certificate has this date been served on counsel for each party to the appeal.</p> <p>DATED this <u>17th</u> day of <u>JANUARY</u>, <u>2006</u>.</p> <p style="text-align: right;"> _____ Circuit Clerk</p>		



IN THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR MONTGOMERY COUNTY
MONTGOMERY, ALABAMA

RENA STINSON,
APPELLANT,

vs.

CRIMINAL ACTION

CASE NO. CC-04-1694

STATE OF ALABAMA,
APPELLEE.

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CASE NO. CC-04-1694

STATE OF ALABAMA,

APPELLEE.

COURT REPORTER'S TRANSCRIPT OF PROCEEDINGS
AUGUST 22, 2005
AUGUST 23, 2005
MONTGOMERY COUNTY COURTHOUSE
COURTROOM 3-A

BEFORE: THE HONORABLE TRUMAN HOBBS
CIRCUIT JUDGE

APPEARANCES

FOR THE APPELLANT:
CYNTHIAN LASHON MAY, ESQUIRE
MONTGOMERY, ALABAMA

FOR THE APPELLEE:
BRANDON HUGHES, ESQUIRE
RICHARD FOREMAN, ESQUIRE
DEPUTY DISTRICT ATTORNEYS
FIFTEENTH JUDICIAL CIRCUIT
MONTGOMERY, ALABAMA

JAN GOSS
OFFICIAL COURT REPORTER

1 PROCEEDINGS

2 (In the presence of the jury venire:)

3 THE COURT: If I could just get the folks
4 on the venire to raise your right hand for me,
5 please.

6 (The jury venire was sworn by the
7 Court.)

8 THE COURT: I appreciate y'all being here
9 this morning. My name is Truman Hobbs. I am
10 the judge presiding over this case which is
11 the State of Alabama versus Rena Stinson. She
12 is charged with theft of property. I tell you
13 that because in a minute I will ask you if you
14 know anything about the facts and
15 circumstances surrounding this case.

16 Before we get started, I want to tell
17 y'all how much all the judges here in this
18 courthouse appreciate you being here this
19 week. The best system anyone has devised in
20 the history of the world, as far as I am
21 concerned, is to put twelve folks in the jury
22 box and let them decide someone's guilt or
23 innocence. Obviously, that system can't work
24 unless folks like yourselves are willing to
25 come down here and take time away from your

1 families and your jobs and do your civic
2 duties as jurors. All of us very much
3 appreciate your willingness to serve.

4 I am going to ask you some questions.
5 The lawyers will ask you some questions. We
6 are not trying to pry into your personal
7 business. We are just trying to get some
8 information that may help these lawyers when
9 it comes time to select a jury --

10 I have introduced myself. Let me
11 introduce the other folks on this side of the
12 room. Ms. Stinson is seated here at the table
13 with her attorney Ms. May. The District
14 Attorneys that will be trying this case are
15 Brandon Hughes and Richard Foreman.

16 Now that you have sort of met everybody
17 on this side of the room, if you would please
18 -- the clerk is going to call your name. When
19 your name is called, if you would stand up and
20 tell us what you do for a living and tell us
21 what your spouse does for a living. If you or
22 your spouse is retired, please tell us what
23 you did before you retired.

24 (The roll of the venire was called.)

25 THE COURT: Okay. Thank y'all. I am

1 going to ask you some questions first. If I
2 ask you a question dealing with your family
3 members, I am talking about your spouse,
4 children, grand children, parents,
5 grandparents, brothers, sisters, that sort of
6 thing. As I indicated, Ms. Stinson is seated
7 here at the table. Anybody related by blood
8 or marriage to Ms. Stinson or acquainted with
9 her for any reason?

10 Her attorney Ms. May is seated next to
11 her and I am not even going to try to
12 pronounce your first name, Ms. May. Don't
13 take it personally, please. It's more than I
14 can handle. Anybody here related by blood or
15 marriage to Ms. May or acquainted with her or
16 ever been to her law office for any reason?

17 The district attorneys here are Richard
18 Foreman and Brandon Hughes. Anybody here
19 related by blood or marriage to either one of
20 those gentlemen or acquainted with them for
21 any reason?

22 The district attorney here in Montgomery
23 County is Ellen Brooks. Anybody personally
24 acquainted with her or related to her by blood
25 or marriage? Are y'all out there? Anybody

1 here have anybody in your family that works in
2 with the Montgomery Police Department or any
3 other law enforcement agency? Thank goodness.

4 If you need to share some information
5 with me, if you would please stand up, give us
6 your name and then give us that information
7 because she needs to take it all down. Okay?

8 JUROR: My name is Earnestine Johnson.
9 My granddaughter works for Department of
10 Public Safety.

11 THE COURT: Okay. Thank you, Ms.
12 Johnson. Yes, ma'am?

13 JUROR: Hattie Macon. My sister works at
14 the police department and my brother-in-law.

15 THE COURT: Okay. Thank you, ma'am.
16 Yes, sir?

17 JUROR: Jerald Martin. My sister-in-law
18 retired from the Montgomery Sheriff's
19 Department roughly about seven or eight years
20 ago. She was a deputy with the Montgomery
21 Sheriff's Department.

22 THE COURT: Thank you, sir.

23 JUROR: Angela Motley. I work with the
24 Alabama Securities Commission. I don't know
25 if that --

1 THE COURT: That's close enough I guess.
2 Anybody else? Anybody here --

3 JUROR: I have got a nephew that works at
4 County Law. Oliver.

5 THE COURT: Mr. Oliver. Works at County
6 Law?

7 JUROR: Yes.

8 THE COURT: Okay. Anybody here in your
9 immediate family work for the district
10 attorney's office? Anybody have an interest
11 in the outcome of this case either for a
12 conviction or for an acquittal? Anybody given
13 a promise that they are going to vote a
14 certain way in this case? Anybody here that,
15 for whatever reason, you just don't think you
16 can call this case? For whatever reason you
17 just don't think you can be fair to one side
18 or the other, for whatever reason? I will ask
19 you one more question. And this is a question
20 that we are not trying to embarrass anybody.
21 If you don't feel comfortable standing up in
22 front of a room with total strangers and
23 giving us this information, we will let you
24 stay behind when everybody else goes back to
25 jury assembly room.

1 Has anyone here or anybody in your
2 immediate family been charged of the offense
3 involving theft in the last twelve months?

4 Okay. I will let the lawyers ask some
5 questions.

6 MR. HUGHES: Good morning. The judge
7 told you my name is Brandon Hughes. I work
8 with the district attorney's office
9 prosecuting this case on behalf of the State
10 of Alabama. I just ask for your patience.
11 Bear with me. I woke up with a little head
12 cold this morning. We will do the best we
13 can.

14 The first thing I will ask you is -- I
15 will just run through who I expect the
16 witnesses to be and just ask if you know them,
17 related to them in any way as the judge asked
18 you before or even think you might know them,
19 raise your hand. At this point it is very
20 important you answer it honestly and as freely
21 and openly as possible. It's important to the
22 Defendant that everybody answers truthfully.
23 It's also important to the State of Alabama
24 and the citizens of Alabama that you answer as
25 openly and honestly as you can.

1 The first witness is -- and I am not
2 calling them in any particular order -- Emma
3 Jean Anderson. Does anyone know Ms. Emma Jean
4 Anderson? How about Ms. Carol Ray. Each of
5 these women are elderly women, if that gives
6 you any point of reference. Eva Williams,
7 also goes by Evaceal Williams. And the last
8 victim in this case and I apologize for the
9 pronunciation of her name, but it's Dhawiredy
10 Devi. Does that ring any bells? The case
11 agent is with Montgomery Police Department
12 Detective W. J. Roberts, a Jason Roberts.
13 Does anyone know Detective Roberts? Detective
14 Roberts works with the Montgomery Police
15 Department.

16 This case was investigated by Montgomery
17 Police Department. Is there anyone here for
18 any reason that just does not like the
19 Montgomery Police Department, don't like cops,
20 don't like law enforcement, just say, hey, I
21 don't trust them? I am not trying to insult
22 your intelligence, believe me. The feedback
23 we have gotten in the past and the results we
24 have gotten in the past dictates that we ask
25 these questions. I apologize. I am not

1 trying to talk down to you by any means.

2 Anyone here who feels you have a problem
3 sitting in judgment of someone? If you're
4 picked for the jury, you are, in essence,
5 going to be judging the guilt or the innocence
6 of Ms. Stinson. Anyone here for moral or
7 religious reasons that when it gets down to
8 the question where you just say, you know
9 what, I just don't feel comfortable deciding
10 the guilt or the innocence of Ms. Stinson?
11 Anyone here feels that way?

12 The standard the State has to overcome is
13 reasonable doubt. It's not easy to define
14 reasonable doubt. The judge will tell you
15 what the law says reasonable doubt is. But
16 essentially it is not beyond all doubt. It's
17 not to a one hundred percent certainty. I
18 think that all of us would agree that to know
19 one hundred percent what happened that day, we
20 all would have been there on each location at
21 the time of the offense to know beyond all
22 doubt one hundred percent what happened.
23 Therefore, the standard is reasonable doubt.
24 Anyone here have a problem with that. Say,
25 you know what, that's too low, I think you

1 should have to go beyond that. If you get
2 down and examine yourself deep down and you
3 say, you know what, I don't think it's right,
4 reasonable doubt is too low of a standard and
5 it must be beyond all doubt. Anyone feel that
6 way? It's okay if you do. We just need to
7 know now instead of when you get back there.

8 The final thing I will ask you and again
9 I am not trying to insult your intelligence.
10 Anybody watch C.S.I. and Law and Order, all
11 that stuff? Everybody watches it. I do.
12 It's great shows. Anybody here realize that
13 that's Hollywood or New York City or Miami or
14 Vagas or wherever, right? C.S.I. has got some
15 really cool equipment. Does everybody
16 realize, a, a lot of it doesn't exist, b, if
17 it did exist, the State of Alabama probably
18 can't afford it and don't have it. There are
19 no satellites you dial up on a date and time
20 and will show you camera work of what
21 happened. There is no music here. I don't
22 know if there is going to be any Law and Order
23 moments. Everybody is not going to hold
24 either Ms. May or us to the standard of
25 something they saw on Law and Order?

1 If you look back and say you know there
2 was a death case two weeks ago and they
3 handled differently or or they did something
4 else. Everybody can make that
5 differentiation? Okay. I appreciate your
6 time. Ms. May may have a few questions for
7 you. Thank you.

8 THE COURT: Ms. May.

9 MS. MAY: Mr. Hughes has given you an
10 idea of this standard of reasonable doubt.
11 And all of you -- assuming that all of you are
12 okay with that standard. That you're okay
13 with the fact that it may not be proven beyond
14 a shadow of a doubt but there may exist some
15 reasonable doubt. Anybody here watch
16 Matlock? Remember Matlock and understand like
17 C.S.I. it's fictional. And that things that
18 happen in Matlock may not necessarily happen
19 in this courtroom today. I take it that
20 everyone is okay with that? That's all I
21 have.

22 THE COURT: Okay. Ladies and gentlemen,
23 we are going to let y'all go back to the jury
24 assembly room while we select a jury. If
25 there is anything that you think you need to

1 stay behind and share with us, please do so.
2 In addition, Ms. Joyce, Mr. Loucks and Ms.
3 Latimore-Bray could stay behind. Those three
4 folks can stay behind. The rest of y'all go
5 back to the jury assembly room unless you
6 think there is something we need to know.

7 (Outside jury venire's presence.)

8 THE COURT: Mr. Loucks, if you would come
9 up here, sir, just for a second. Mr.
10 Loucks, we are not trying to embarrass you or
11 pry into your personal business. On the
12 questionnaire you indicated that someone in
13 your family had been convicted of a crime.

14 MR. HUGHES: I'm sorry, it was actually
15 just left blank.

16 PROSPECTIVE JUROR: No.

17 THE COURT: Nobody?

18 PROSPECTIVE JUROR: No.

19 MR. HUGHES: It was just the only
20 question left blank.

21 PROSPECTIVE JUROR: No, no.

22 THE COURT: Sorry to bother with you.
23 You can go back to the jury assembly room.

24 Ms. Johnson, I will ask you the same
25 thing. I don't want to pry. Apparently, on

1 the questionnaire there is a question about
2 anybody in your family ever been convicted of
3 something and you left it blank.

4 PROSPECTIVE JUROR: No, sir.

5 THE COURT: Okay. That's all we need to
6 know. Thank you, ma'am.

7 Ms. Latimore-Bray. Come on up. Same
8 question asks about if anybody in your family
9 has been convicted of a crime. Apparently,
10 you left it blank.

11 PROSPECTIVE JUROR: No, I didn't. I
12 didn't think I did anyway.

13 THE COURT: Somebody thinks you did. Let
14 me just ask you, anybody in your family --

15 PROSPECTIVE JUROR: I listed my son and I
16 said narcotics.

17 THE COURT: Okay. Didn't mean to pry.
18 Anybody got any further questions? That's
19 it. Thank you, ma'am.

20 Yes, ma'am? Come on up.

21 PROSPECTIVE JUROR: I have a question. I
22 put on there my brother-in-law, but I wasn't
23 for sure about immediate family. My
24 brother-in-law was arrested. I don't know if
25 it was theft property one. I know he was

1 arrested. I don't know what the count was
2 for.

3 MS. MAY: You're Ms. Motley?

4 JUROR: Yes.

5 THE COURT: Thank you, Ms. Motley.

6 (Short recess.)

7 MR. HUGHES: State's first strike will be
8 299.

9 MS. MAY: Defense strikes Earnestine
10 Johnson.

11 THE COURT: If you could use the numbers

12 MS. MAY: 257.

13 THE COURT: Okay. 257.

14 MR. HUGHES: State strikes 331.

15 MS. MAY: Defense for 319.

16 MR. HUGHES: 353.

17 MS. MAY: 356.

18 MR. HUGHES: 280.

19 MS. MAY: 323.

20 MR. HUGHES: 288.

21 MS. MAY: 316.

22 MR. HUGHES: 276.

23 MS. MAY: 286.

24 MR. HUGHES: 278.

25 MS. MAY: 265.

1 THE COURT: This will be the alternate.

2 MS. MAY: 302.

3 (In the presence of the jury:)

4 THE COURT: Let me give y'all one more
5 oath. Raise your right hands, please.

6 (The jury was given the oath by the
7 Court.)

8 THE COURT: We are starting to have to
9 give all those oaths repeatedly. Sometimes
10 when they get over to the penitentiary, they
11 want to claim that the jury wasn't sworn
12 properly. So now we swear y'all in about ten
13 different times to make sure it gets done
14 right.

15 I don't know if congratulations are in
16 order or not, but y'all have been selected for
17 this jury. Your first order of business will
18 be to go to lunch. I hope y'all can handle
19 that without too much strain. If y'all would
20 be back in the jury assembly room at 1:15, we
21 will get started. We will start and I will
22 just give y'all kind of a breakdown on what my
23 role is, your role is and the procedure we are
24 going to follow. After that, we will get
25 started with the lawyers presenting their case

1 to you. So if y'all will be back at 1:15.

2 Let me tell you this before you go, just
3 some general rules to govern yourselves when
4 you're not in the jury box. The safest thing
5 is don't discuss the case with anybody. Don't
6 let anybody discuss the case with you. Don't
7 even talk about it among yourselves. I know
8 you don't know much about it. When you go
9 home for lunch or get around some buddies or
10 something and they say, oh, have you been
11 selected for a jury, just say, yes, I got
12 selected for a case. I don't know anything
13 about it, but it involves a theft. As soon as
14 you say that, they are going to start talking
15 to you about the case, what they think about
16 theft in general. We don't want you to decide
17 the case based on anything other than what you
18 hear in this courtroom. The safest course of
19 action is just tell your family or your
20 friends I have been selected for a jury. I
21 can't even tell you what it's about. I'm just
22 not supposed to talk about it. Okay? Don't
23 get on the Internet and start looking up theft
24 or, you know, don't call your brother-in-law's
25 first cousin who is a lawyer asking them about

1 theft or criminal law or anything like that.
2 Again, we want you to decide the case based on
3 what you hear in this courtroom. Okay? See
4 y'all at 1:15.

5 (Lunch break.)

6 (Outside jury's presence.)

7 MR. HUGHES: I had a victim not show up.
8 It's D-h-a-w-i-r-e-d-d-y, last name D-e-v-i.

9 THE COURT: Are you dismissing that
10 count?

11 MR. HUGHES: Yes, sir, this is in case
12 number 04-1694, Rena Stinson. State will make
13 a motion to nolle pros count three of the
14 indictment which is theft of property first
15 degree based on the victim's failure to
16 appear.

17 THE COURT: Okay.

18 MR. HUGHES: Just make sure we don't
19 mention that.

20 THE COURT: Okay. Let's go.

21 (In the presence of the jury:)

22 THE COURT: Good afternoon. Let me kind
23 of tell y'all what everybody's role is in this
24 and what the procedure is going to be. First
25 off, please turn off your cell phones. That's

1 the first point of procedure. As far as what
2 everybody is supposed to do, I will start with
3 myself. I see the judge as kind of like a
4 referee in a football game. My role is to
5 make sure this is a fair trial, fair to
6 everybody. I do not have a dog in the fight.
7 So please don't sit there and concern yourself
8 why did the judge rule this, why did he let
9 this piece of evidence in. If you are going
10 off on those sort of rabbit trails, we are
11 going to have a problem. I will rule on
12 points of evidence in the case. If somebody
13 objects, I will make a ruling. If somebody
14 offers an exhibit into evidence, I will make a
15 ruling. Please again don't worry about why I
16 did it or don't sit there and worry about if
17 the witness was allowed to answer if he had
18 said this or something like that. Let me
19 address your role in the case.

20 The jury's role is that y'all are the
21 sole and exclusive judges of the evidence. It
22 is your job to listen to the evidence, to
23 determine what the true facts in the case
24 are. At the end of the case I will give you
25 the law that governs this case. You go back

1 to the jury room and you determine what the
2 true facts are in the case, apply those facts
3 to the law and reach a verdict.

4 Let's talk about evidence and what is
5 evidence. We start off with what is not
6 evidence. Anything I tell you, that's not
7 evidence. Anything I say is not evidence.
8 The rulings I make, those aren't evidence.
9 What the attorneys say to you, that's not
10 evidence. What is evidence is what you hear
11 from witnesses sworn to tell the truth who are
12 on the witness stand. That's evidence. What
13 is also evidence are any exhibits that are
14 allowed into evidence.

15 Finally, the presumption of innocence is
16 evidence in the case. Ms. Stinson is presumed
17 innocent. That is evidence in the case. She
18 is presumed innocent until such time as y'all
19 go back in the jury deliberation room, sift
20 through the evidence and you determine, if you
21 should determine, that she is guilty of the
22 offenses charged against her beyond a
23 reasonable doubt. Until you make that
24 determination, she is presumed innocent. That
25 innocence stays with her throughout the trial.

1 What's the procedure that we are going to
2 follow? The first thing that happens is the
3 lawyers get up and give what's known as an
4 opening statement to you. It's simply an
5 opportunity for them to review the evidence
6 with you. The State goes first because they
7 have the burden of proof. They must prove Ms.
8 Stinson's guilt beyond a reasonable doubt.

9 Following the opening statements, the
10 State presents its case. Again, they go
11 first. After the State rests, the defense
12 presents its case, if any.

13 At the close of all the evidence, the
14 lawyers will get up and give what's known as a
15 closing argument. It's simply an opportunity
16 for them to review the evidence in the case
17 with you and talk a little bit about the law
18 that applies to the case. And they will argue
19 what the evidence and the law mandates, an
20 acquittal or conviction, depending on who is
21 doing the argument at that particular point in
22 time. The State goes first followed by the
23 defense. Then the State gets a rebuttal again
24 because they had that burden of proof.

25 We will try to take a break every hour or

1 so just to keep everybody fresh. If you need
2 to take a break more frequently than that,
3 raise your hand, jump up and down, whatever
4 you need to do to get my attention or get
5 Jan's attention. We will be happy to break if
6 you need one. We are going to do everything
7 we can to accommodate you. I realize that
8 y'all are the ones that are doing us a favor
9 by being here this week. Y'all are the ones
10 that are taking time away from your jobs and
11 families to participate in the process. I do
12 everything that I can do to make this as less
13 of an inconvenience to you as I possible can.

14 We will generally go up until about 4:30
15 in the afternoon. I will try not to go past
16 that. If there is a witness in the middle of
17 its testimony, we may go a little beyond that
18 just so we can finish that testimony for the
19 day. We might be able to finish the case this
20 afternoon. If not, we will finish it up
21 tomorrow morning, just for your planning
22 purposes. Okay. Ready to go?

23 MR. HUGHES: Yes, sir. May it please the
24 Court, Ms. May, members of the jury. We are
25 here today because about a little over two

1 years ago the defendant in this case Ms. Rena
2 Stinson scammed three elderly women, Ms. Emma
3 Jean Anderson, Ms. Carol Ray and Ms. Evaceal
4 Williams out of the bulk of their savings
5 account. When I say bulk, I mean the bulk. I
6 mean, there was -- I don't think that you will
7 hear evidence that they zeroed it out, but
8 pretty close, just several thousand dollars to
9 just a few hundred dollars.

10 How she went about this is what's
11 commonly referred to as a flim flam scam.
12 Some of you may have heard of it. But what it
13 boils down to is two counts of theft property
14 first degree and one count of theft property
15 in the second degree. She used this scam to
16 steal their money. Again, Ms. Anderson and
17 Ms. Ray, theft of property first degree is
18 what Ms. Stinson charged with. Ms. Williams,
19 it's a count of theft property in the second
20 degree.

21 Theft of the property in the second
22 degree is just saying she stole more than five
23 hundred dollars but less than twenty-five
24 hundred dollars. Theft of property in the
25 first degree, Ms. Stinson is charged with

1 stealing greater than twenty-five hundred
2 dollars.

3 I submit to you the evidence is going to
4 show that through this scam she stole
5 approximately thirty-five hundred dollars from
6 Ms. Anderson, ninety-five hundred dollars from
7 Ms. Ray and about fifteen hundred dollars from
8 Ms. Williams. How that scam would go, I'm not
9 going to go into each case in detail right
10 now. You will hear evidence from the stand, I
11 submit, on how each case came about.

12 But basically the scam worked like this.
13 The defendant would approach elderly women
14 searching out -- in this case approached
15 elderly women in a parking lot of Sears, Winn
16 Dixie on Atlanta Highway, Burlington Coat
17 Factory and Wal-Mart, super Wal-Mart on
18 Atlanta Highway. She would approach these
19 women and say, you know, excuse me, is this
20 your purse or bank bag or whatever. There
21 would be some container. They would say, no,
22 that's not mine. The defendant would then say
23 well there is a bunch of money in here and
24 sometimes she would disclose an amount. I
25 think one time she said there is a hundred and

1 twenty thousand dollars in here. The other
2 times she would say, look, I'm not sure how
3 much but it's a lot. She would ask the victim
4 what do you want to do. The victim would say
5 I don't know. Call the police. I don't know.

6 Well the defendant would say, well, I
7 don't know, let's call my boss. He is an
8 attorney with Wal-Mart, or he is the
9 accounting guy at Burlington Coat Factory or
10 some authority figure they she would know to
11 let's call this person and they will know what
12 to do.

13 She gets on the phone. Ms. Stinson gets
14 on the phone and talks to somebody. I don't
15 know who, a male voice. She will hang up and
16 says about two or three different ways in
17 these cases. She says, hey, he said we can
18 keep the money, we just have to pay the
19 taxes. He knows about this stuff. We just
20 bring him the money for the taxes and we can
21 keep it, or you go get money from the bank, we
22 can take it to him, whatever position he is
23 in, attorney at Wal-Mart whatever, and he will
24 trade out some of the bills because we don't
25 know where this money came from. He will

1 write down the serial number on the bills. So
2 basically saying, hey, you give me a little
3 money to cover this little bit and your award
4 is going to be big, ten thousand, sixty
5 thousand dollars.

6 So inevitably the victim would go to
7 their bank and a lot of times she would ask
8 how much can you get. The victim may say,
9 well, I have got some money in Max or Comala
10 Credit Union or money at A. G. Edwards. And
11 they'd say, well, go get all you can. That's
12 how this -- she didn't care what she was
13 doing. She said go get whatever you got and
14 bring it to me.

15 So they would go to the bank. Ms.
16 Anderson withdrew thirty-five hundred dollars.
17 That's all she had. Ms. Williams withdrew
18 fifteen hundred dollars. That's what she had
19 in her account. Ms. Ray withdrew nine
20 thousand five hundred dollars. Okay. Again,
21 these are elderly women. They are not earning
22 income anymore. What they have is what they
23 have. I submit the evidence is going to show
24 Ms. Stinson took it from them.

25 Then they would come back from the bank

1 and say this is all I could get. Almost
2 apologetic, like I'm sorry I couldn't get no
3 more. I hope this is enough. But it was
4 enough for Ms. Stinson. Anything is enough
5 for Ms. Stinson. She says, hey, let's go over
6 to this place and we will go talk to the
7 person who told us about this.

8 In Ms. Ray's case they actually -- the
9 defendant was going to walk into Wal-Mart.
10 Ms. Ray said you got nine thousand dollars of
11 my money and I'm coming with you. She was
12 like okay. So they go walking into Wal-Mart
13 and stand around the customer service desk.
14 Ms. Stinson just takes off running.
15 Obviously, Ms. Ray is not going to keep up
16 with her. She loses her and lost her money.

17 In another case they go into -- the
18 defendant goes into Burlington Coat Factory,
19 comes back out and the victim says where is
20 the money. Ms. Stinson says, oh, he is
21 writing the serial number down. I will go
22 back and get it. The defendant goes back in
23 and after about thirty minutes, doesn't come
24 back out. The victim starts to say, hey, I
25 just lost my money.

1 In another case she just says thanks. Go
2 in and he's got it waiting on you when you go
3 in. Ms. Anderson goes in to Sears looks
4 around, realized, hey, I just got scammed.
5 She took advantage of these women. She took
6 what they had. Again, theft of property in
7 the first degree is why we are here, two
8 counts and theft of property in the second
9 degree.

10 It took about a year for them to track
11 down who was doing this. They described as
12 best they could, the victims did. They
13 eventually rounded up a suspect. Ms. Stinson.
14 They put her in a photographic lineup,
15 presented to each victim that you're going to
16 hear from today. Evidence is going to show
17 they picked her out in every single one of
18 them and said that's her, over a year later.
19 That's how much it affected these women. I
20 don't know how sharp my memory is but a year
21 later they were able to say, bam, that's her.
22 She is the one that took my money. She is the
23 one that emptied my bank account.

24 They go visit her after she is picked out
25 of lineup. The police go to where she is and

1 question her. You're going to hear the
2 defendant admit, hey, I have got a gambling
3 addiction. I have got a gambling problem.
4 Okay. She admitted she had a gambling
5 problem.

6 Again, ladies and gentlemen, that's the
7 case. I submit that's the evidence you're
8 going to hear today. At the end of the case
9 after hearing all the witnesses and seeing all
10 the evidence, I'm going to ask that you find
11 Ms. Rena Stinson guilty of theft of property
12 in the first degree for taking thirty-five
13 hundred dollars from Ms. Anderson, theft of
14 property in the first degree for taking nine
15 thousand five hundred dollars from Ms. Carol
16 Ray and theft of property in the second degree
17 for taking fifteen hundred dollars from Ms.
18 Eva Williams. Thank you very much.

19 MS. MAY: May it please the Court.
20 Ladies and gentlemen of the jury, my job at
21 this particular juncture of this trial is to
22 give you a glimpse into what you will see and
23 what you will hear today. One thing that you
24 will hear is testimony. But the people giving
25 the testimony, they are elderly people.

1 Now, there are two undercurrents in this
2 trial. One is sympathy and one is mistaken
3 identity. I want you to understand very
4 clearly that you have a duty and you have a
5 task today. And although the victims are
6 elderly, I don't want you to get caught up in
7 sympathy. I'm not saying that your heart
8 shouldn't go out to them. My heart goes out
9 to them. The reason heart goes out to them,
10 my contention is not that they are not
11 victimized. My contention is that Rena
12 Stinson right there is not the person. She is
13 not the person who victimized these women.

14 So today as testimony comes forward, what
15 I want you to listen to, listen to the
16 descriptions that are given. Listen very
17 closely to what these women said. The bottom
18 line is they were victimized. And I'm sorry
19 that they were victimized. But because of
20 sympathy, the authority finger that somebody
21 had to pay, somebody had to pay. And who did
22 they finger? They fingered my client Rena
23 Stinson.

24 But today listen very carefully. Rena
25 Stinson is not the person who did this to

1 these women. She is not the individual who
2 stole from these women. And when all is said
3 and done, at the end when I have sat down,
4 when Mr. Hughes the State has sat down and you
5 go back there and you think about the
6 testimony and you review the facts and you
7 review the evidence at the end, if there is in
8 your mind a reasonable doubt as to whether or
9 not Rena did this, you got to find her not
10 guilty. It's part of your job. It's a part
11 of your duty today.

12 Listen, I plead with you listen. Because
13 of sympathy, somebody had to take a fall.
14 Listen carefully to the evidence presented.
15 Look carefully at the evidence presented.
16 Rena Stinson is not the person who did this.
17 If you listen today, if you watch the evidence
18 presented today, you will see that. But again
19 if there is reasonable doubt at the end, you
20 have got to find her not guilty.

21 THE COURT: Call your first witness.

22 MR. FOREMAN: Your Honor, the State would
23 call Carol Ray.

24 CAROL RAY,
25 A witness, after having first been duly sworn

1 to speak the truth, the whole truth, and
2 nothing but the truth, took the stand and
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MR. FOREMAN:

6 Q. State your name for the record, please.

7 A. Carol Ray, R-a-y.

8 Q. Ms. Ray, how old are you?

9 A. Seventy-five.

10 Q. You live here in Montgomery County?

11 A. Uh-huh.

12 Q. How long have you lived here?

13 A. All my life.

14 Q. All your life. I want to take you back if I
15 can, back to April 9th, 2003, were you in
16 Montgomery County at that time?

17 A. Yes.

18 Q. Did you have occasion to come in contact with
19 the defendant Rena Stinson on that day?

20 A. Yes.

21 Q. How did you come in contact?

22 A. At Wal-Mart on the Atlanta Highway. And I put
23 my things in my car, in my trunk of my car and
24 went to take the buggy back.

25 Q. You had been shopping there?

- 1 A. I had been shopping.
- 2 Q. Do you remember what time of day that was?
- 3 A. It was about 1:30 in the afternoon.
- 4 Q. Middle of the day?
- 5 A. Uh-huh.
- 6 Q. Okay. So you had been shopping?
- 7 A. Uh-huh.
- 8 Q. Going back out to your car?
- 9 A. Uh-huh.
- 10 Q. What, if anything, happened at that time?
- 11 A. I came back to my car and there was a zippered
- 12 bag right by my door. And she just appeared.
- 13 And she reached over and picked it up and
- 14 opened it. It was full of money.
- 15 Q. It was full of money?
- 16 A. Uh-huh.
- 17 Q. When you said she, you mean the defendant?
- 18 A. It had a note in it. It said the big boys got
- 19 theirs. This is yours. Or this is yours, the
- 20 big boys got theirs.
- 21 Q. When you said she just appeared out of
- 22 nowhere, you mean the defendant?
- 23 A. She was just there when I came back from
- 24 putting my buggy up.
- 25 Q. Okay. Do you recognize Ms. Stinson? Do you

1 see her in the courtroom today?

2 A. Yes. She had a different hair.

3 Q. Do you see her in the courtroom today?

4 A. Yes.

5 Q. Can you point to her or identify something she
6 is wearing?

7 A. A white top.

8 MR. FOREMAN: Your Honor, let the record
9 reflect that the witness identified the
10 defendant.

11 THE COURT: Okay.

12 A. That day she had on a dress and a jacket and
13 heels and her hair was to her shoulders.

14 Q. So did the defendant approach you with a bag
15 of money that she had found?

16 A. Yes.

17 Q. What did she do with that bag of money at that
18 time?

19 A. She said what are we going to do. I said,
20 call the police. And she said, well, this is
21 drug money and they will just take it. It
22 will just be gone. She got in my car. And
23 she said let's talk about it.

24 Q. She got in the car with you?

25 A. Uh-huh.

1 Q. Okay. Did you talk to her about it?

2 A. Yes. She held my hand.

3 Q. What did you decide to do with the money?

4 A. Well, she was talking to a man on the phone
5 all the time. She kept calling him on her
6 cell phone. He kept telling her what to do.
7 Then he even talked to me.

8 Q. So you talked to a man on the cell phone?

9 A. Uh-huh.

10 Q. Did he identify himself?

11 A. Huh?

12 Q. Did he identify himself?

13 A. No. Well, he said he was a lawyer, an
14 attorney for Wal-Mart. She worked for
15 Wal-Mart. And that they were there for a
16 meeting and that he was inside in a meeting.

17 Q. So she identified herself as working for
18 Wal-Mart?

19 A. Uh-huh.

20 Q. And this gentleman on the phone identified
21 himself as being an attorney at Wal-Mart?

22 A. She identified him.

23 Q. Okay. So after you spoke to that gentlemen,
24 what happened then?

25 A. He kept calling back and forth and back and

1 forth. Well, I was scared of course. And he
2 kept talking about he was on the New York
3 stock exchange. And that he needed some
4 serial numbers. He also said there was a
5 negotiable bond in that zippered bag. So we
6 get in the car and when we got to the bank,
7 her bank was by my bank and I put her out.

8 Q. Can I stop you for a second?

9 A. Uh-huh.

10 Q. He said that he needed some serial numbers?

11 A. Off of the money to -- I don't know, to run it
12 through some way. I just -- I just really
13 didn't --

14 Q. So between the phone conversation you had and
15 you in the car with Ms. Stinson, what at that
16 point what did you decide that needed to be
17 done with that money?

18 A. She said I'm going to get some money too. Put
19 me off at my bank and go to your bank. They
20 were right by each other. So that's what I
21 did.

22 Q. So you dropped her off at her bank?

23 A. Uh-huh.

24 Q. Do you remember what bank that was?

25 A. It was Compass or Alliant one, right there at

1 Eastdale. It was right there.

2 Q. You dropped her off and then you went to your
3 bank?

4 A. Uh-huh.

5 Q. Which bank do you use?

6 A. Comala Credit Union at Eastdale. It's where
7 they have a branch at Eastdale.

8 Q. What did you do when you got to your bank?

9 A. I went and got cash money out of my account.

10 Q. What kind of account?

11 A. It was my savings account.

12 Q. How much money did you get out?

13 A. Nine thousand five hundred.

14 Q. Was that all the money you had in there?

15 A. I had a thousand more.

16 Q. So that was majority of it?

17 A. Uh-huh.

18 Q. What did you do after you got your money out?

19 A. I went back and she was waiting on me. We
20 went back and she gave me a bank bag.

21 Q. She was waiting on you at her bank?

22 A. Uh-huh. She gave me a bank bag. She said,
23 here, you take this. My husband is real -- if
24 I come home with this money, I don't know what
25 he'll do to me. She said you take it. I

1 said, no, I don't want it.

2 Q. Was this the same bank bag?

3 A. No, it was a bank bag. It was zippered on one
4 side. The other one had three sides zippered.

5 Q. So --

6 A. So she said well I'm going to take these in
7 here and get the serial numbers off. And I
8 will be back. And so she took off and I got
9 out and followed her. And her picture was on
10 Wal-Mart --

11 Q. Let me stop you for a second. She got out.
12 Where were you?

13 A. Back at Wal-Mart.

14 Q. So you were back at Wal-Mart this time?

15 A. Uh-huh.

16 Q. Go ahead.

17 A. She got out and said she was going to take the
18 money to have them get the numbers off. And I
19 followed her. I went behind her.

20 Q. You went in the store with her?

21 A. Uh-huh.

22 Q. Was she going to go in without you?

23 A. Yeah. But I followed her. And then when we
24 walked through the door, they had a picture of
25 me right behind her. And we went to customer

1 service. And she said -- she stood there and
2 said you can't go back there where he is in
3 the meeting.

4 Q. Where he is?

5 A. Yes, she said he was in Wal-Mart in a meeting.

6 Q. When you say he, who are you referring to?

7 A. The man she was talking to on the phone.

8 Q. The guy she identified as an attorney?

9 A. Uh-huh.

10 Q. He was supposedly in the building at that
11 time?

12 A. Yes.

13 Q. And it was your impression she was waiting to
14 talk to him?

15 A. She was going to take the money and let him
16 get -- they had a machine supposedly that he
17 could get the numbers off the money, the
18 serial numbers. And so when we got to
19 customer service, she looked at me and she
20 said you can't go back there. And she turned
21 around and ran out of Wal-Mart. And I chased
22 her and I lost her.

23 Q. So she just took off running with your money?

24 A. Uh-huh.

25 Q. And --

1 A. I felt like he was following us when we went
2 to the bank. Somebody was following us.

3 Q. Now, this Wal-Mart is on Atlanta Highway?

4 A. Yes.

5 Q. The bank, is all that located in Montgomery
6 County?

7 A. They are all right there close together.

8 Q. In Montgomery County?

9 A. Yes.

10 Q. So you tried to follow her out when she took
11 off?

12 A. Yes. She turned the corner and lost me.

13 Q. Okay. Was that the last you saw of her?

14 A. Yes. Then we called the police. I went back
15 to customer service and they called the police
16 for me. They called the security. And then
17 they called the police.

18 Q. Did you have any intentions on giving Ms.
19 Stinson that money for her to keep?

20 A. No.

21 Q. So it was your impression that you would be
22 getting that money back?

23 A. Yes.

24 Q. Did you have occasion after this date to
25 identify Ms. Stinson in a photo lineup?

- 1 A. At the police department.
- 2 Q. Okay. Do you remember when that was?
- 3 A. I think it was two years ago.
- 4 MR. FOREMAN: Your Honor, may I approach
- 5 the witness?
- 6 THE COURT: Sure.
- 7 Q. Ms. Ray, I want to show you what I have marked
- 8 State's Exhibit 1 and ask you if you can
- 9 identify that?
- 10 A. Yes.
- 11 Q. Can you tell us what that is?
- 12 A. That was from the police department.
- 13 Q. Okay.
- 14 A. That had six pictures on here.
- 15 Q. Do you see a date on there anywhere?
- 16 A. April 13th.
- 17 Q. Of what year?
- 18 A. '04.
- 19 Q. 2004?
- 20 A. Uh-huh.
- 21 Q. I want to ask you, is that your name written
- 22 right there?
- 23 A. This?
- 24 Q. Yes, ma'am.
- 25 A. Yes.

- 1 Q. Is that your signature?
- 2 A. Yes.
- 3 Q. Did you sign that?
- 4 A. Yes.
- 5 Q. Also right here where it says remarks, does
6 that appear to be your handwriting?
- 7 A. Yes.
- 8 Q. Do you remember writing that?
- 9 A. Yes.
- 10 Q. Can you read what it says right there, please?
- 11 A. Her hair was different but the facial features
12 are the same. I'm sure the female pictured in
13 number four is the person that helped scam me.
- 14 Q. You identified the picture that was in place
15 number four?
- 16 A. Uh-huh.
- 17 Q. Okay. Also quickly, do you see where it says
18 time observation started? Can you tell us
19 what that says?
- 20 A. Right here?
- 21 Q. Yes, ma'am.
- 22 A. 0729.
- 23 Q. 0729?
- 24 A. Yes.
- 25 Q. Do you see the time when it ended?

1 A. 0733.

2 Q. So it took you just a couple of minutes to
3 pick her out?

4 A. Yes.

5 Q. When you saw that photo lineup, were you sure
6 that you I.D.'d the right person?

7 A. Yes.

8 Q. Did anyone lead you to believe -- before you
9 saw it, did anyone tell you which one to pick?

10 A. No.

11 Q. Okay. So you you picked number four because
12 that's who you remembered as being the one?

13 A. Yes.

14 MR. FOREMAN: Judge, May I approach?

15 (Off-the-record discussion was held and
16 the following occurred in open court:)

17 MS. MAY: Judge, I'm going to voice an
18 objection to the admission of these. I
19 requested them on an earlier bases and it's
20 just now today that I have seen them.

21 MR. FOREMAN: Your Honor, may I approach
22 the witness?

23 THE COURT: I think you better. Or
24 approach me.

25 (Off-the-record discussion was held and

1 the following occurred in open court:)

2 Q. Ms. Ray, I am going to show you what's marked
3 State's Exhibit 2 and ask you if you can
4 identify that?

5 A. I know the hair is not the same.

6 Q. Okay. Can you tell us what that is?

7 A. What what is? The person?

8 Q. Just what this is.

9 A. It's six pictures.

10 Q. Is that what you were shown when you were
11 asked to identify the defendant?

12 A. Uh-huh, yeah.

13 Q. That is the same one?

14 A. Uh-huh.

15 Q. And you stated earlier that you identified
16 number four?

17 A. Uh-huh.

18 Q. That appears to be the same thing that you
19 were shown?

20 A. Yeah, except for the hair. Her smile is the
21 same.

22 Q. So you're saying that except for the hair.
23 Are you saying the hair is different from when
24 you saw her at Wal-Mart that day?

25 A. Yeah.

1 Q. But that's the same picture you were shown?

2 A. Yes.

3 MR. FOREMAN: No further questions, Your
4 Honor.

5 CROSS-EXAMINATION

6 BY MS. MAY:

7 Q. Ms. Ray, while you were at Wal-Mart, you say
8 that your testimony is that someone, a woman,
9 just appeared?

10 A. Yes.

11 Q. Again, refresh my memory. What exactly were
12 you doing when this woman just appeared?

13 A. I was getting in my car.

14 Q. You were getting in the car?

15 A. Yes.

16 Q. Had you finished loading your groceries?

17 A. I had put the groceries in the trunk. Then I
18 took the buggy to where they keep the buggies
19 and came back to my car.

20 Q. Okay. Where were you parked in the parking
21 lot?

22 A. In about the middle.

23 Q. About the middle?

24 A. Uh-huh.

25 Q. So while you were pushing your buggy to the

1 car, did you pass a number of people on your
2 way to your car?

3 A. No.

4 Q. No one was in the parking lot?

5 A. No one was.

6 Q. No one was walking in the parking lot while
7 you were walking middle ways in the parking
8 lot to your car?

9 A. No.

10 Q. Now, this incident -- can you tell me when the
11 incident happened?

12 A. About 1:00 or 1:30 in the afternoon.

13 Q. And how long ago?

14 A. About two years ago, I guess.

15 Q. Two?

16 A. It's been a long time.

17 Q. It has been a long time. It has. Now, a few
18 seconds ago you were shown some photographs.

19 You were a little hesitant with the
20 photographs. Are you positive that those are
21 the same photographs that were shown to you at
22 the police station?

23 A. I'm not positive. It looked like them. But
24 that's been a long time ago.

25 Q. You're right, that has been a long time ago.

1 A. A long time ago.

2 Q. It resembles them but you're not quite sure
3 that that's them?

4 A. I'm not one hundred percent positive now on
5 what I saw two years ago.

6 Q. You're not one hundred percent positive now on
7 what you saw two years ago. Okay. You say
8 that it was my client who approached you in
9 the parking lot. How are you positive or how
10 are you sure that it was her now? How are you
11 sure it was her then?

12 A. Well, she has the same facial features. Her
13 hair is not the same.

14 Q. What facial features are those?

15 A. Well, she had a like a smile when she was
16 smiling at me and holding my hand.

17 Q. She had a smile?

18 A. Uh-huh.

19 Q. Anything else?

20 A. Her wig. She had a wig on. I could tell it
21 was a wig. It was a page boy.

22 Q. It was what?

23 A. A page boy.

24 Q. Page boy.

25 A. About the length of yours.

1 Q. Tell me more about the facial features. You
2 said she smiled?

3 A. She had on makeup, you know, a good bit of
4 rouge and makeup.

5 Q. Okay. And other than that, are there any
6 other specific facial features?

7 A. She looks about the same size. Oh, facial
8 features? No.

9 Q. Now, when you went to the police station, how
10 did you describe the person who took your
11 money? Do you remember what description you
12 gave them? Did you give them a height and a
13 size?

14 A. Yes.

15 Q. About how tall was that person, do you
16 remember?

17 A. Taller than me. About five six or seven and I
18 couldn't tell for sure the age. I thought it
19 was around fifty, forty-five.

20 Q. About five six, five seven. What about the
21 size?

22 A. A little bit taller than I am. I'm five
23 three.

24 Q. What about the size?

25 A. Not as big as I am, not quite.

1 Q. Okay. So were they petite? Let's do this.

2 A. Not really petite. They were not shorter than
3 me. I'm five three. They were taller than
4 me.

5 Q. All right. We have ladies on the jury. Were
6 they a size ten, size twelve, size fourteen?

7 A. She looked like about a twelve or fourteen.

8 Q. About a twelve or a fourteen. Again, so that
9 I'm clear, about five six, five seven, about
10 twelve or fourteen. What color did you
11 describe?

12 A. Color?

13 Q. What color? What complexion?

14 A. Light. Not real dark.

15 Q. Not real dark. A light complected black
16 female?

17 A. Yes, female.

18 Q. Thank you.

19 MS. MAY: No more questions.

20 REDIRECT EXAMINATION

21 BY MR. FOREMAN:

22 Q. Briefly, Your Honor. You said it has been a
23 couple of years, is that correct, since this
24 happened?

25 A. Yes.

1 Q. When you were shown that lineup, you said that
2 was closer to the time after the event than
3 now; is that correct?

4 A. Yes.

5 Q. You also stated you didn't have any trouble
6 picking her out of the lineup at that time?

7 A. No.

8 Q. Was it fresher on your mind at that time?

9 A. Yes.

10 MR. FOREMAN: Nothing further.

11 RECROSS-EXAMINATION

12 BY MS. MAY:

13 Q. You didn't have any trouble picking her out of
14 the lineup, right?

15 A. No.

16 Q. But the description was basically the same,
17 right, the description you just gave me, five
18 six to five seven, twelve to fourteen, light
19 complected black female?

20 A. I think so.

21 Q. Thank you, Ms. Ray.

22 THE COURT: Okay.

23 MR. HUGHES: That's it.

24 THE COURT: Ms. Ray, you can step down.

25 Thank you, ma'am.

1 (Witness excused.)

2 MR. HUGHES: May Ms. Ray be excused?

3 THE COURT: Yes.

4 MR. HUGHES: She requested to sit out
5 here.

6 MS. MAY: Yes, that's fine with me.

7 MR. HUGHES: Calling Ms. Anderson

8 EMMA JEAN ANDERSON,

9 A witness, after having first been duly sworn
10 to speak the truth, the whole truth, and
11 nothing but the truth, took the stand and
12 testified as follows:

13 BY MR. HUGHES:

14 Q. Good afternoon, Ms. Anderson. If you could,
15 state your name for the Court, please.

16 A. My name is Emma Jean Anderson.

17 Q. How old are you, Ms. Anderson?

18 A. I'm seventy-two years old.

19 Q. Okay. Now, do you live here in Montgomery
20 County?

21 A. Yeah.

22 Q. Okay. I'm going to direct your attention back
23 to a little over two years ago to April 28th,
24 2003. Do you remember that day?

25 A. I remember that day.

1 Q. Do you remember going to Winn-Dixie that day?

2 A. Yes.

3 Q. Do you remember being approached by a black
4 female that day?

5 A. Yeah.

6 Q. Do you see the woman that approached you, do
7 you see her in court today?

8 A. Well, when I seen her, she had on a wig. And
9 I haven't seen no more in the picture of her
10 since I identified her at the police
11 headquarters.

12 Q. So I'm just going to ask you, yes or no for
13 the Court's purposes, do you recognize anyone
14 in this courtroom that approached you that
15 day?

16 A. Well, you know, it has been so long.

17 Q. That's okay. Just tell the truth. It's going
18 to be all right.

19 A. Well --

20 Q. You're not real sure?

21 A. No.

22 Q. Fair enough, Ms. Anderson. Do you remember
23 that day, the events of that day, what
24 happened when you were approached?

25 A. Uh-huh.

1 Q. Okay. Now what happened when you were
2 approached that day?

3 A. Well, I was fixing to get in the car. And
4 this lady walked up, you know, talking. And
5 she opened a purse like a purse, you know.

6 Q. Who did? Did the female that approached you?

7 A. Right. And then it just seemed like, you
8 know, that you be in a dream.

9 Q. All right. Let me ask you this. Did she show
10 you anything inside the purse?

11 A. I didn't see anything inside the purse.

12 Q. Did she open it up and show it to you?

13 A. I didn't see anything inside the purse.

14 Q. But you said she opened a purse?

15 A. Right.

16 Q. Did she say anything to you?

17 A. Well, yeah, she talked.

18 Q. What did she say?

19 A. It's been so long that I don't remember.

20 Q. Did she mention anything to you about money?

21 A. Well, no.

22 Q. Okay. Did you have an opportunity to leave
23 there and go to your bank at any time?

24 A. Yeah, that's where they take me.

25 Q. Okay. Why did you go to your bank?

1 A. She said that -- I can't remember about that.

2 Q. You remember going to your bank?

3 A. Right.

4 Q. What did you do at your bank?

5 A. I went there and I drew three thousand
6 dollars out. I left there and went to -- up
7 there to the mall, up there on the end there.
8 So she said that go up and -- because they
9 moved that store out of there.

10 Q. A store in the mall?

11 A. Yeah. And she will be there to meet me when I
12 got back.

13 Q. She would be where?

14 A. In my car.

15 Q. She -- are you by your car at this point? Are
16 you beside your car with her?

17 A. No, I was driving my car. But you don't --

18 Q. So she says -- tells you to go inside and
19 says, hey, when you get back, I will be right
20 here?

21 A. Uh-huh.

22 Q. Did you go inside?

23 A. Yeah.

24 Q. How long were you inside?

25 A. About ten minutes.

- 1 Q. What were you doing inside? Do you remember?
- 2 A. I don't remember that. But about ten minutes
- 3 was whenever it was, I walked right side a
- 4 white guy. I never will forget that. And
- 5 seems like when he touched me, whoever he was
- 6 just went away. Then I turned around. And I
- 7 said, oh, I have been robbed.
- 8 Q. So -- what did you do with that three thousand
- 9 dollars that you said you withdraw?
- 10 A. To her.
- 11 Q. You gave it to her before going in the store?
- 12 A. Right.
- 13 Q. Did you take anything in the mall with you?
- 14 A. Uh-uh, nothing but my purse and my keys.
- 15 Q. And your money was not in your purse?
- 16 A. No.
- 17 Q. So you walked back outside. What did you do
- 18 then?
- 19 A. I looked and she wasn't there.
- 20 Q. Did she have your money?
- 21 A. Uh-huh.
- 22 Q. Did you give her permission to take off with
- 23 your money?
- 24 A. No.
- 25 Q. What did you do after you got outside and

1 realized that she had taken off with your
2 money?

3 A. I called my son. But he wasn't there. So
4 then I went home. And then I left home, me
5 and my daughter. She came to the police
6 headquarters with me.

7 Q. So you made it down to police headquarters?

8 A. Right.

9 Q. Now, when you were down at police
10 headquarters, what did you do at that point?

11 A. They showed me some pictures. She had on a
12 wig.

13 Q. Let me ask you this. I'm going to show you
14 what's previously been marked State's Exhibit
15 2. Do you recognize this at all?

16 A. Been so long.

17 Q. If you could describe for the Court if you can
18 just what you're holding. What is that whole
19 thing, if you know?

20 A. Well, now --

21 Q. Can you describe what you're holding to the
22 Court?

23 A. Oh, that number four.

24 Q. Ms. Anderson. I'm sorry, we are not asking
25 you to pick out Ms. Stinson at this point. If

- 1 you could describe what you're holding.
- 2 A. Oh, a photo of some pictures.
- 3 Q. How many pictures is it?
- 4 A. Six pictures.
- 5 Q. What are they pictures of?
- 6 A. Ladies, I guess.
- 7 Q. Are they full body or face shots?
- 8 A. Face shots.
- 9 Q. Okay. Do you recall seeing that lineup
- 10 before?
- 11 A. Uh-uh.
- 12 Q. You never looked at that?
- 13 A. No.
- 14 Q. Let me ask you this. Thank you. Did you look
- 15 at a photo lineup in the police station?
- 16 A. Uh-uh.
- 17 Q. I'm going to show you what's marked State's
- 18 Exhibit 3 and ask if you recognize that piece
- 19 of paper?
- 20 A. I recognize the handwriting.
- 21 Q. Have you seen that piece of paper before?
- 22 A. Not lately.
- 23 Q. Well, let me ask you this. Do you see a date
- 24 on that piece of paper?
- 25 A. Oh, this is the date here.

- 1 Q. No, ma'am, that's the case number. I'm going
2 to direct your attention over to this side.
3 Do you see a date over there?
4 A. Um.
5 Q. What are those last two numbers there?
6 A. Zero four.
7 Q. So April 13th, 2004. I'm going to ask you
8 something. Is this your name right here?
9 A. Yeah.
10 Q. What does it say there?
11 A. Right here?
12 Q. Yes, ma'am.
13 A. Well, it says Emma Anderson.
14 Q. You're Emma Anderson?
15 A. Right.
16 Q. Okay. I want you to look at the line below
17 that. Do you recognize that handwriting?
18 A. Yeah, that's my handwriting.
19 Q. Is that your signature?
20 A. Yes.
21 Q. Okay. Now, again, I'm just going to ask you
22 if you remember or not, did you look at an
23 assortment of pictures when you were handed
24 that?
25 A. Yeah, but they wasn't on -- I done forgot

1 now. Maybe they was on there. I don't
2 remember that.

3 Q. Do you recall picking a number? Do you recall
4 picking a number out of those six pictures?

5 A. No, it's been so long.

6 Q. Okay. I'm going to ask you to refresh your
7 recollection on this piece of paper. Do you
8 see anywhere where it says where you picked
9 out a number?

10 A. Uh-huh. Number four.

11 Q. And did you pick out number four?

12 A. Yeah.

13 Q. Did you pick that out because you recognized
14 her as being the lady that took your three
15 thousand dollars?

16 A. Uh-huh.

17 Q. May I see that, please? Thank you. Now, Ms.
18 Anderson, did the events that we have talked
19 about today, did that occur in Montgomery
20 County?

21 A. Yeah.

22 Q. Okay.

23 MR. HUGHES: That's all I have.

24 CROSS-EXAMINATION

25 BY MS. MAY:

1 Q. You testified that on April 28th, 2003, you
2 went to Winn Dixie; is that right?

3 A. Uh-huh.

4 Q. Okay. And also you testified that you're not
5 quite sure about the woman who walked up to
6 you, but that someone did walk up to you with
7 their purse; is that right? That someone
8 walked up to you with their purse; is that
9 right?

10 A. (Affirmative response.)

11 Q. Now, is it your testimony that you're not
12 really sure on who walked up with that purse?
13 You just know that it was a black woman who
14 walked up with that purse?

15 A. No, I know.

16 Q. You know?

17 A. I know about that picture.

18 Q. The picture?

19 A. Uh-huh. I never seen her. But I know about
20 the picture.

21 Q. You never saw it. So when you went down to
22 the police station you never saw a picture?

23 A. No, because I just had got robbed then. And
24 that's when they showed the pictures.

25 Q. Okay. All right.

1 A. And that's when I picked it out.

2 Q. At the police station?

3 A. Uh-huh.

4 Q. Now, a few seconds ago Mr. Hughes right there
5 showed you that form that had 4/13/04 on it,
6 the form he just took back with him. Okay.
7 Earlier you testified that you didn't remember
8 the form. So is it now that you're saying you
9 remember the form?

10 A. May I say this? When he brought me that
11 picture, see, I had picked out number four.
12 And then he brought me the paper. Well, you
13 know, it has been two years ago. Okay. Some
14 things you --

15 Q. Okay. I understand. I understand.

16 MR. HUGHES: Your Honor, I object. I
17 guess let Ms. Anderson finish her answer. I
18 believe Ms. May cut her off.

19 THE COURT: Let her finish.

20 Q. Finish what you were saying.

21 A. Some things be two years ago you forget a
22 little bit of it. And some things you don't.

23 Q. Okay. So what are you saying that you
24 remember? Are you saying you remember going
25 to the police station?

1 A. Yeah. I remember the picture.

2 Q. You --

3 A. I remember the picture. He showed me pictures
4 before he showed me the form.

5 Q. Okay.

6 A. So I identified number four.

7 Q. Okay. And also you stated that at Winn-Dixie
8 the hair was different?

9 A. Sure.

10 Q. Okay. What other features do you remember?
11 Do you remember other features of the woman?

12 A. No.

13 Q. Okay. All right. Thank you, Ms. Anderson.

14 MR. HUGHES: No further questions, Judge.

15 THE COURT: Ms. Anderson, you can step
16 down.

17 MR. HUGHES: May she be excused?

18 MS. MAY: Yes.

19 (Witness excused.)

20 MR. HUGHES: State will call Ms. Eva
21 Williams.

22 EVA WILLIAMS,

23 A witness, after having first been duly sworn

24 to speak the truth, the whole truth, and

25 nothing but the truth, took the stand and

1 testified as follows:

2 DIRECT EXAMINATION

3 BY MR. HUGHES:

4 Q. Ms. Williams, if you could state your name for
5 the Court, please.

6 A. Evaceal Hall Williams.

7 Q. Do you go by Eva sometimes?

8 A. Eva.

9 Q. You live here in Montgomery County?

10 A. Yes.

11 Q. How old are you, Ms. Williams?

12 A. Seventy-nine.

13 Q. Okay. Thank you. I am going to take you back
14 to June 25th, 2003. Do you remember that day
15 at all?

16 A. I think it was August.

17 Q. Okay. Well, do you remember sometime in that
18 time frame being approached?

19 A. I do.

20 Q. In a parking lot?

21 A. Yes.

22 Q. Do you remember where that was?

23 A. Sears.

24 Q. Do you know who approached you?

25 A. I know who she told me she was.

1 Q. Who did she tell you she was?

2 A. Shirley.

3 Q. She said her name was Shirley.

4 A. Uh-huh.

5 Q. Okay. Was it a black female?

6 A. Yes.

7 Q. Now, had you seen her before that day?

8 A. No.

9 Q. Were you shopping at Sears?

10 A. I was.

11 Q. Where were you?

12 A. I was outside, though.

13 Q. Were you leaving Sears or were you going in?

14 A. Uh-huh.

15 Q. Did you have some packages with you?

16 A. I don't think I bought anything.

17 Q. Okay. Were you attempting to get in your car?

18 A. I did. I was in my car.

19 Q. What happened?

20 A. She approached me on the driver's side. I

21 didn't see her until she was just there. And

22 she had a wallet thing in her hand. And she

23 asked me if it was mine. I said no. She says

24 I don't know what to do with it. I said take

25 it in Sears and give it to them in the

1 office. She said I don't think I should do
2 that. I said, well, give it to the security
3 guard. No, I am not going to give it to the
4 security guard. Then she opened it and showed
5 me all this money.

6 Q. Do you know how much money was in there?

7 A. I don't. I don't even know if it was real
8 money or not. I never touched it. It was
9 like this.

10 Q. Okay. Do you know the denominations or
11 anything?

12 A. No.

13 Q. What did she do at that point?

14 A. Well, she kept saying she didn't know what to
15 do. And she was talking on the speaker phone
16 to this man. And they were suppose to have
17 been working at Burlington. She said she
18 worked -- that he was the office manager and
19 she worked in the office.

20 Q. Burlington Coat Factory?

21 A. Uh-huh.

22 Q. You said it was a cell phone she was talking
23 on?

24 A. Uh-huh.

25 Q. But you could hear both conversations?

- 1 A. I could hear it, yeah. She asked him what to
2 do with it. He said bring it on down here and
3 let me see what we should do. He says I know
4 your car is broke down. But says maybe this
5 lady will bring you down here. Stupid me, I
6 put her in the car and here we go. She went
7 in and she come back out. I can't really
8 remember all the things that she said. But
9 she was talking to him all the time.
- 10 Q. While you were driving to Burlington Coat
11 Factory?
- 12 A. Uh-huh. And down there, I didn't get out of
13 the car. I parked and she went in the store
14 and come back. And he wanted to know if I
15 could give them some money so they could get
16 the serial numbers off. He said it was drug
17 money. Get the serial numbers off of it.
- 18 Q. What did you do at that point?
- 19 A. Well, they talked me into going up to the bank
20 at the mall. What is it? Not Regions, the
21 other one. Max.
- 22 Q. Okay. Do you bank at Max?
- 23 A. Well, I had an account there. I had one at
24 Regions, too.
- 25 Q. Did they tell you how much to take out?

1 A. All I could. They wanted me to take all I
2 had. I didn't have but fifteen hundred in
3 there.

4 Q. Did you go down to the bank?

5 A. Yeah.

6 Q. This is after the first trip to Burlington?

7 A. Yes.

8 Q. Did you go in the bank?

9 A. Yeah, I went in the bank. But she didn't.
10 She said she wanted to go over to Sears to the
11 bathroom.

12 Q. Did you take her to Sears?

13 A. No, she just walked across the street.

14 Q. When you were at Max?

15 A. I was at Max.

16 Q. Did you withdraw any money?

17 A. I drew the fifteen hundred dollars.

18 Q. How much did that leave in your account?

19 A. Eight dollars.

20 Q. Okay. Now after you withdrew the fifteen
21 hundred dollars, what did she do with that
22 money?

23 A. She took it and we went back down to Max
24 (sic). He was going to get the serial
25 numbers. And she took it in and she come back

1 one time out to the car. And she had two bank
2 bags.

3 Q. Let me stop you right there. You said you
4 left Max and went to Max.

5 A. I left Max and went back to Burlington with
6 the money.

7 Q. What happened at that point?

8 A. She went in and she took the fifteen hundred
9 dollars. He was going to take the serial
10 numbers off of them. She was going to bring
11 it back to me. And she left it. She come
12 back with those bags that had -- she said ten
13 thousand dollars in them. She was going to
14 take one and going to give me one. But we
15 couldn't spend it until -- I don't understand
16 it -- until they heard from -- what do you do
17 when they try to get money out?

18 Q. That's above my pay raise, ma'am, I don't
19 know.

20 A. I don't know. Anyway, they went back and
21 forth. She left my fifteen hundred in there
22 for him to be taking the serial numbers off.

23 Q. She went in by herself?

24 A. Yeah. I never did go in Burlington.

25 Q. At some point did she come back?

- 1 A. Yeah, she come back. And then she says I am
2 going back and get your money. When she went
3 back that time, I realized what I had done. I
4 called the police right away.
- 5 Q. Did you go in looking for her?
- 6 A. No.
- 7 Q. Did she ever come back out?
- 8 A. No. I watched the door. Evidently went out
9 another door.
- 10 Q. Did you give her permission to keep your
11 fifteen hundred dollars?
- 12 A. To keep it? No, she was supposed to bring it
13 back to me.
- 14 Q. Okay. What did you do after you called the
15 police?
- 16 A. I waited for them. They come out and they
17 went in there. She told me that he was the
18 office manager and she worked in the office.
19 And they went in there and they said they had
20 no such people working there.
- 21 Q. So you are saying the defendant and this guy
22 said that they were working there?
- 23 A. Yes. And that was the last I saw of them.
- 24 Q. Did you ever make a trip down to the police
25 station?

1 A. Yes, I did.

2 Q. Okay. Were you shown a photographic lineup?

3 Do you remember?

4 A. Yes.

5 Q. I am going to show you what again has been
6 marked State's Exhibit Number 2 and ask if you
7 could describe for the Court what this is?

8 A. That's her.

9 Q. Without picking her out, what is that? What
10 are you looking at?

11 A. Well, I don't know.

12 Q. Let me ask you this. Are there some pictures
13 on there?

14 A. Yeah.

15 Q. How many pictures are there?

16 A. Six.

17 Q. How would you describe the pictures? What are
18 they pictures of?

19 A. Women.

20 Q. Like face shots, body shots?

21 A. Face shots.

22 Q. Okay. And do you recall seeing that photo
23 lineup or if you remember?

24 A. I don't remember all the faces. But I think
25 this is her.

1 Q. Which number are you pointing at?

2 A. Four.

3 Q. I am going to show you this State's Exhibit 4.

4 Yes, ma'am, State's Exhibit 4. If you could
5 just look over it and describe for the Court
6 what that is.

7 A. I don't understand what you mean.

8 Q. Let me rephrase the question. Have you seen
9 this piece of paper before?

10 A. I don't know.

11 Q. Is there a date on that piece of paper
12 anywhere?

13 A. This says 4/13 right here.

14 Q. What year?

15 A. '04.

16 Q. April 13, 2004?

17 A. That's what it says.

18 Q. Now, I am just going to ask you. Do you see
19 your name on there anywhere?

20 A. Yeah.

21 Q. What does it say?

22 A. Evaceal Williams.

23 Q. Do you see your signature on it?

24 A. Yes.

25 Q. So you signed that piece of paper?

1 A. Uh-huh.

2 Q. Okay. Does it represent anywhere on that
3 piece of paper what number you picked out of
4 the photographic lineup?

5 A. Yeah, number four.

6 Q. So you picked out number four on the lineup
7 you looked at?

8 A. Yeah.

9 Q. That was in fact the person who took your
10 money?

11 A. That's the one.

12 Q. Were you sure at that time?

13 A. I am positive.

14 Q. Okay. Ms. Williams, everything that occurred
15 that we have just talked about, did that occur
16 in Montgomery County?

17 A. Yes.

18 MR. HUGHES: No further questions.

19 CROSS-EXAMINATION

20 BY MS. MAY:

21 Q. Ms. Williams, you say you were at Sears
22 parking lot; is that right?

23 A. I don't hear very good. You're going to have
24 to come closer.

25 Q. No problem. You were at Sears parking lot?

1 A. Uh-huh.

2 Q. And where were you parked in the parking lot?

3 A. Right out the door in the handicap in the
4 front of the mall in a handicapped area.

5 Q. You say that a woman approached you?

6 A. Yeah.

7 Q. And she had a wallet?

8 A. Yeah.

9 Q. And what was the description you gave to the
10 police?

11 A. What's the what?

12 Q. What was the description? How did you
13 describe her when you went to the police?

14 A. I tried to describe her. She had a wig on.

15 Q. Give me height, weight.

16 A. Well --

17 Q. Facial features.

18 A. I don't remember that. But I tried to
19 describe the clothing that she had on.

20 Q. You don't really remember how her face looked?

21 A. No, I just remember that her teeth were not
22 real straight in the front.

23 Q. Was she light complected or dark?

24 A. That, I don't remember.

25 Q. You don't remember. Okay.

1 A. It was a real hot day and I was trying to get
2 home.

3 Q. I understand. So you don't remember if she
4 was light complected or dark complected. You
5 just remember the wig?

6 A. The wig. And she wasn't real -- I don't think
7 she was real dark dark.

8 Q. What do you call dark dark?

9 A. I don't know.

10 Q. Am I dark dark?

11 A. I didn't think she was as dark as you are.

12 Q. Okay. Was she fair, fair skinned?

13 A. I guess, I don't know.

14 Q. You're not sure?

15 A. I am not sure.

16 Q. Thank you, Ms. Williams.

17 REDIRECT EXAMINATION

18 BY MR. HUGHES:

19 Q. One question. I'm sorry I didn't ask you
20 previously. Do you see the woman that took
21 your money?

22 A. Yeah, I think that's the woman.

23 Q. Could you point to her and describe her?

24 A. (Pointing.)

25 Q. If you could describe for the Court what she

1 is wearing for the record.

2 A. Huh?

3 Q. Describe some distinguishing feature about her
4 or what she is wearing for the Court and for
5 the record today.

6 A. Today? I don't know. She wasn't wearing that
7 type of clothes that day. I don't know.

8 Q. Okay. Do you see the woman that took your
9 money in the courtroom today?

10 A. Yes, I think so.

11 Q. If you could just point out who you think it
12 is and describe her clothing?

13 A. Well, she has got on a white blouse and a dark
14 skirt.

15 Q. Thank you, ma'am. That's all I have.

16 THE COURT: Anything further for this
17 lady?

18 MS. MAY: No, Judge.

19 THE COURT: You can step down. Thank
20 you.

21 MR. HUGHES: May she be excused?

22 THE COURT: Yes.

23 (Witness excused.)

24 MR. FOREMAN: State would call Detective
25 Roberts.

1 THE COURT: Short witness.

2 MR. FOREMAN: Yes, sir, should be pretty
3 brief.

4 JASON ROBERTS,
5 A witness, after having first been duly sworn
6 to speak the truth, the whole truth, and
7 nothing but the truth, took the stand and
8 testified as follows:

9 DIRECT EXAMINATION

10 BY MR. FOREMAN:

11 Q. Can you state your name, please?

12 A. Jason Roberts.

13 Q. Where are you employed?

14 A. City of Montgomery as a detective.

15 Q. How long have you been employed with them?

16 A. About four years now.

17 Q. Four years?

18 A. (Affirmative response.)

19 Q. You were employed with them -- so you were
20 employed with them back in 2003?

21 A. Yes, sir.

22 Q. What were your duties at that time?

23 A. Detective.

24 Q. Now, were you assigned to be the case agent on
25 some cases involving some scams that have gone

1 on in various parking lots during that time?

2 A. Yes.

3 Q. Were you involved with a case involving Ms.
4 Carol Ray?

5 A. Yes, sir.

6 Q. Were you involved with a case involving a Ms.
7 Evaceal Williams?

8 A. Yes, sir.

9 Q. Involving Ms. Emma Jean Anderson?

10 A. Yes.

11 Q. Were you the case agent on all those cases?

12 A. That's correct.

13 Q. What does it mean to be a case agent on the
14 case?

15 A. If there is any investigating to do, excuse
16 me, if there is any investigating to do, you
17 do the investigating and then you compile the
18 case file, turn it over to the D.A.'s office.

19 Q. During your investigations on those three
20 cases were you able to develop a suspect?

21 A. I was.

22 Q. How were you able to develop a suspect?

23 A. Well, these crimes are very, very hard to
24 solve. If you don't catch them in the act,
25 more than likely you're not going to catch

1 them. I saw a couple of still shots that the
2 bank had printed out for me. Of course, I
3 just studied those and studied those. We have
4 got a data base, a computer that everybody
5 that gets arrested, brought up there, gets put
6 in city jail, is brought to us for
7 questioning. We take their photograph. And
8 put them into a data base.

9 MR. HUGHES: May I have a moment?

10 Q. You were saying you had a data base?

11 A. Put them in a data base. Actually put into
12 the perimeters for my search which, you know,
13 you can break it down by black male, sixteen
14 or seventeen years old. Black female, age
15 perimeters, weight perimeters. And I got
16 several thousand photos. And I just sat,
17 took my time and went through all those and
18 developed that way because it matched real
19 close to the still shots.

20 Q. So who were you able to develop as a suspect
21 after doing all that?

22 A. Rena Stinson.

23 Q. That was sifting through photos?

24 A. Sifting through photos and a fellow detective
25 was dropping somebody off at the county jail

1 and observed her at the county jail and gave
2 me her name there.

3 Q. Did you take Ms. Stinson into custody?

4 A. No, sir, not at this time.

5 Q. Did you question her?

6 A. Not at this time. I did question her after I
7 put her in the photographic lineup.

8 MR. FOREMAN: May I approach the witness,
9 Your Honor?

10 THE COURT: Sure.

11 Q. I want to show you what is marked State's
12 Exhibit 2 and ask you if you can identify
13 this?

14 A. That's correct. That's a photographic lineup.

15 Q. Did you compile that lineup?

16 A. I did.

17 Q. What perimeters did you use as far as choosing
18 who would go in that lineup?

19 A. I just random, no particular order. Just
20 people same race, same approximate age,
21 weight.

22 Q. So did you base that on the descriptions that
23 you got?

24 A. That's correct.

25 Q. Now, did you show this lineup to any of the

- 1 victims in the case?
- 2 A. I did.
- 3 Q. When did you do that?
- 4 A. I don't have the exact date.
- 5 Q. I am going to show you what's marked as
6 State's Exhibit 1 and ask you if you can
7 identify that?
- 8 A. That's correct. This is a photo lineup work
9 sheet. Whenever you use a standard lineup,
10 you would actually use a photo lineup sheet
11 and on 4/13/04 approximately 7:42 I showed the
12 lineup and --
- 13 Q. Who did you show that lineup to?
- 14 A. Ms. Carol Ray.
- 15 Q. And I want to ask you a question. There are
16 some -- appears to be some squares down
17 there. What are those squares?
- 18 A. Those squares signify the picture order just
19 as it is marked on the folder one through
20 six. It's got numbers one through six.
- 21 Q. Was Ms. Ray able to pick someone out of that
22 lineup?
- 23 A. She picked out number four.
- 24 Q. Okay. Did she sign that form to your
25 knowledge?

1 A. She did.

2 Q. I am going to show you what is marked State's
3 Exhibit 3 and ask you if you can identify
4 that?

5 A. Yes, sir. It's also a photo lineup where that
6 was showed on 4/13/04.

7 Q. Who was that one shown to?

8 A. Emma Jean Anderson.

9 Q. Same photo lineup?

10 A. I showed her the same photo lineup.

11 Q. Was she able to pick out someone?

12 A. She also picked out number four.

13 Q. Okay. And number four is?

14 A. Rena Stinson.

15 Q. You said that occurred on the same date?

16 A. That's correct.

17 Q. I also want to show you State's Exhibit 4 and
18 ask you if you can identify that?

19 A. This is also a photo lineup work sheet. It
20 was shown to Evaceal Williams on the same date
21 and she also picked out number four.

22 Q. Okay. So you showed all three of these
23 victims the same photo lineup, and they all
24 picked number four; is that correct?

25 A. That's correct.

1 Q. Number four is Ms. Rena Stinson?

2 A. That's correct.

3 Q. You compiled this and you --

4 A. That's correct.

5 Q. What did you do with this after you showed it
6 to them?

7 A. After I showed it to them, it was impounded
8 for safekeeping.

9 Q. You impounded it?

10 A. That's correct.

11 MR. FOREMAN: Your Honor, at this time
12 the State would move to admit State's Exhibit
13 1, 2, 3, and 4 into evidence.

14 THE COURT: Okay.

15 (State's Exhibit Numbers 1, 2, 3 and 4
16 were admitted into evidence.)

17 Q. Now at any time did you question Ms. Stinson?

18 A. I did.

19 Q. At what point did you question her?

20 A. After I had positively identified Ms. Stinson
21 as the person --

22 MR. HUGHES: Sorry, Judge, may I have a
23 moment.

24 Q. You did have an opportunity to interview Ms.
25 Stinson?

1 A. Yes, sir.

2 Q. When you interviewed Ms. Stinson, did you read
3 her her rights?

4 A. I did.

5 Q. I want to show you what's marked as State's
6 Exhibit Number 5 ask you if you can identify
7 that?

8 A. This will be the standard City of Montgomery
9 Miranda Rights Form that was filled out on
10 4/13/04.

11 Q. That's when you questioned Ms. Stinson?

12 A. That's correct.

13 Q. Is that signature -- whose signature?

14 A. That is going to be my signature saying that I
15 read her her rights.

16 Q. So you sign that after you read her her
17 rights?

18 A. That's correct.

19 Q. Did she sign that indicating that she
20 understood those rights?

21 A. She did.

22 Q. So at that time did Ms. Stinson make any
23 statements?

24 A. She did not. She denied all the allegations.

25 Q. She denied the allegations?

1 A. Yes.

2 Q. She didn't make any statements at all?

3 A. No.

4 Q. In your duties you compile the case file?

5 A. I do.

6 Q. I am going to show you and ask you if you can
7 identify that?

8 A. That is a supplementary offense report. Every
9 time we do any follow-up investigation, we do
10 one of these to refresh ourselves when it
11 comes time for court.

12 Q. Is that from your case file?

13 A. Yes, it is.

14 Q. Did you compile that yourself?

15 A. I did.

16 Q. I want to direct your attention to this right
17 here. Is that from -- is that from your
18 conversation with Ms. Stinson?

19 A. That's correct.

20 Q. And did you remember her saying anything at
21 that time?

22 A. Well, I talked to her very briefly. She, like
23 I said, denied all allegations but did admit
24 to --

25 MS. MAY: I object as to the grounds for

1 this, the relevancy of it.

2 MR. FOREMAN: Your Honor, I feel it's
3 relevant to show that possibly her motive for
4 committing these crimes.

5 THE COURT: As far as she denied, she
6 said she --

7 MR. HUGHES: May we approach, Your
8 Honor?

9 THE COURT: Yes.

10 (Off-the-record discussion was held and
11 the following occurred in open court:)

12 Q. Did she say anything? Did she make a
13 statement?

14 A. She did. She told me that she had a gambling
15 condition.

16 MR. FOREMAN: Nothing further, Your
17 Honor.

18 CROSS-EXAMINATION

19 BY MS. MAY:

20 Q. Detective Roberts, how long did it take you to
21 conclude your investigation?

22 A. A couple of months.

23 Q. A couple of months. So during that time was
24 this the only case or investigation that you
25 worked on?

1 A. No, ma'am.

2 Q. You worked on others?

3 A. Yes.

4 Q. On this particular investigation, did you
5 follow any other leads?

6 A. There were no other leads.

7 Q. There were no other leads. So other than
8 someone pointing to my client, there was no
9 other lead?

10 A. Well, and then actually picking her out of a
11 photographic lineup.

12 Q. Now, how did you come up with the numbering or
13 this lineup within itself? Seeing that all of
14 the women who have taken the seat where you're
15 standing, they have varying descriptions, how
16 did you come up with this particular
17 arrangement?

18 A. There is no particular arrangement. You just
19 take six or five photographs besides the
20 person that you were looking into and put them
21 in there. No particular order.

22 Q. You just give them to the person and do you
23 leave them alone to pick?

24 A. Absolutely. Nothing having been said. I tell
25 them I am going to show them a photographic

1 lineup. I tell them this does not mean that
2 the person that committed the offense is in
3 this lineup. I give them as long. Then I
4 notate how long they looked at the
5 photographic lineup.

6 Q. By chance do you remember?

7 A. They are going to be on the lineup sheet.

8 Q. Okay. Now when you questioned her, as far as
9 this particular incident, she denied
10 everything. No implicating statements other
11 than what you read about her gambling problem?

12 A. That's correct.

13 Q. She denied everything?

14 A. That's correct.

15 Q. Thank you, detective.

16 MR. FOREMAN: Nothing further.

17 THE COURT: All right.

18 (Witness excused.)

19 MR. HUGHES: State has nothing further.

20 THE COURT: Ladies and gentlemen, why
21 don't we take a break right now. Be back in
22 the jury assembly room at three o'clock. We
23 will come get you at that time, okay. Again,
24 remember don't let anybody discuss the case
25 with you. Don't discuss the case with each

1 other. Okay.

2 (Outside jury's presence.)

3 THE COURT: Ms. May, would you like to
4 make a motion at this time?

5 MS. MAY: At this time, Judge,
6 considering the evidence presented, we move
7 for a directed verdict.

8 THE COURT: Denied. I understand the
9 defense is going to rest.

10 MS. MAY: Yes, sir.

11 THE COURT: Motion?

12 MS. MAY: Renew.

13 THE COURT: Deny it. Let's talk real
14 quick about jury charges. Got anything of
15 great import? Theft of property first degree
16 controlled by deception, taking from person of
17 another. It's got deception six different
18 ways. Pick the one we like the best. Which
19 of these things do y'all want me to read? Do
20 y'all need to look at them real quick?

21 MR. HUGHES: Yes, Your Honor.

22 (Off-the-record discussion was held and
23 the following occurred in open court:)

24 (In the presence of the jury:)

25 THE COURT: Ladies and gentlemen, both

1 the plaintiff and the State and the defense
2 have rested in the case. So what we have
3 before us now is the closing argument portion
4 of the case. This is an opportunity for the
5 lawyers to get up and review with you what
6 they believe the evidence in the case has
7 been. If your recollection of what an
8 attorney says a witness said on the stand is
9 different from the attorney's recollection,
10 you're entitled to rely on your own. I will
11 remind you what the attorneys say is not
12 evidence in the case. The State goes first,
13 followed by the defense. The State gets
14 rebuttal because the State has the burden of
15 proof. Okay.

16 MR. FOREMAN: May it please the Court,
17 opposing counsel, ladies and gentlemen of the
18 jury. Con artists, scam artists, flim flam
19 artists, whatever you want to call it, there
20 is an art involved in this. It takes a lot of
21 planning. You have -- to start off, you have
22 to find the right location, a crowded parking
23 lot at Winn-Dixie or at the mall or at
24 Wal-Mart, because you have a lot of people
25 that can come by, a lot of potential victims,

1 a good place to set up your scheme.

2 You have to have a good scheme, good
3 plan, good line. Come up to someone's car and
4 say, hey, did you drop this money, is this
5 yours. No, it's not my money. Well, what do
6 you want to do with it. Let's call the
7 police, because that's what we should do. But
8 what the defendant did was continue her little
9 con which, no, let's don't call the police,
10 because there is drug money. I know somebody
11 that -- we can keep it. I know somebody that
12 knows these things, maybe an office manager at
13 Burlington, an attorney who works for
14 Wal-Mart, let me call him. I will even let
15 you talk to him. He can tell you how we can
16 keep it.

17 All we got to do is go get some money. I
18 need some of your money first. Go to your
19 bank account, get your money. Then we need to
20 get the serial numbers off of it. Once you
21 get those serial numbers, we will be able to
22 keep it because he is an attorney. He is an
23 office manager, someone who knows these things
24 and he says it's okay.

25 So you take them to the bank, withdraw

1 the majority of your savings account because
2 you have been led under the false impression
3 that if you're doing this, this is all
4 perfectly legal, that you're going to get some
5 money out of it. You're going to get your
6 money back and you're going to get some more
7 money out of it. But that wasn't the case.
8 Because the third part of the art of pulling
9 off this con is you have to find the right
10 victim.

11 Ms. Stinson, the victim that she shows in
12 each one of these is an elderly lady. I don't
13 know why she chose an elderly lady, maybe it's
14 easier for her to talk them into it. Maybe
15 she is thinking they are old and they won't
16 remember when they come to court if something
17 does go wrong. That's who she chose.

18 She chose the first victim you heard from
19 was Ms. Carol Ray. This occurred to her at
20 Wal-Mart. She took ninety-five hundred
21 dollars out of her savings account because
22 this lady told her to. Told her she was going
23 to get it back. Told her she might even get
24 some more money on top of that. She got back
25 at Wal-Mart and she was going to go in with

1 that money. Ms. Ray said you have got my
2 money, I am going in with you. Followed her
3 in. They get to the customer service counter
4 to go talk to this mysterious attorney that
5 was on the phone that told her all of this was
6 good. This is how you do it. She said --
7 Ms. Stinson said, Ms. Ray, you can't go back
8 there in the back where he is. You can't go
9 back there. He is in a meeting or something.

10 Well, at that point what does Ms. Stinson
11 do? She has the money in her hand. She takes
12 off running out the door. She runs off with
13 it, ninety-five hundred dollars.

14 Then you get to Ms. Anderson, same
15 thing. Approaching her in a parking lot with
16 some money, Winn-Dixie parking lot. Ms.
17 Anderson testified that she took three
18 thousand dollars of her money.

19 Then finally you get to Eva Williams,
20 Sears parking lot Eastdale mall, same con,
21 same scam, different location. Takes her to
22 the bank. She withdraws fifteen hundred
23 dollars. She testified she left eight
24 dollars in her account. Ms. Stinson once
25 again runs off with the money, victimizing

1 these people.

2 It's your job to listen to the evidence
3 and to decide what the evidence is. That's
4 what you do. That's why you're here. You
5 have the most important job of all of us.
6 You're the sole triers of the fact. It's your
7 job to listen to the evidence that comes from
8 this witness stand, to watch those witnesses,
9 to decide whether or not you believe them,
10 decide whether they are telling the truth and
11 give weight to what they say.

12 What evidence do we have in this case?
13 We have the testimony of these three ladies,
14 all testified someone took their money. Two
15 of these ladies, Ms. Ray and Ms. Williams,
16 said the defendant did it. They identified
17 her. Yeah, that's her. There she is right
18 there. She is the one at that took my money.
19 Well, also all three of these victims, a year
20 after it happened. When it's a little fresh
21 on their mind, approached by Detective Roberts
22 and shown a photographic lineup, all three of
23 the ladies pick out number four. Number four
24 is the defendant Rena Stinson. All three of
25 them without hesitation number four. She is

1 the one that took my money. That's the one,
2 except she had a wig on. But that's her.
3 Hair was different. She had a wig on. But
4 that's her. That's the evidence that you
5 have. You have the positive I. D. by three
6 victims that identified her as the one that
7 took their money.

8 Now, you can call it, you know, a scam,
9 flim flam, con. The State of Alabama calls it
10 a theft. She is charged with three counts of
11 theft, two counts of theft property first
12 degree. The judge will instruct you on the
13 law. That's his job. That's what he is going
14 to do. But what the State of Alabama contends
15 the law is that if you exert the control of
16 the property of another by deception, then
17 that constitutes theft. If the value is over
18 twenty-five hundred dollars, then that
19 constitutes theft of property in the first
20 degree. If it's over five hundred dollars,
21 it's theft of property in the second degree.

22 Ladies and gentlemen, the evidence is
23 there. There has been evidence that
24 ninety-five hundred dollars was stolen from
25 Ms. Ray, theft property first degree. Three

1 thousand dollars was stolen from Ms. Anderson,
2 theft of property in the first degree. And
3 fifteen hundred dollars stolen from Ms.
4 Williams, theft of property in the second
5 degree.

6 I am asking all of you to go back and use
7 your common sense. Listen to that evidence,
8 look at the exhibits that are admitted and
9 find Rena Stinson guilty on all three counts.

10 MS. MAY: May it please the Court, State,
11 ladies and gentlemen. At the beginning of
12 this I asked you not to get caught up in
13 something. I explained to you that our hearts
14 go out to these people. You have got to look
15 at what's been placed before you. Part of
16 your duty today is to look at what's been
17 placed before you.

18 Now, the first woman, Carol Ray, she took
19 the stand and she admitted that she was unsure
20 of the person who approached her. She
21 described the person as roughly five seven and
22 light complected. Ms. Stinson, would you
23 stand for me? Thank you. Ms. Stinson isn't
24 five seven. She is not light complected.

25 Ms. Ray also said that she couldn't

1 remember the facial features of the person who
2 approached her. She can't remember.

3 Ms. Anderson took the stand and couldn't
4 even remember being shown a photo lineup.
5 True enough, they pointed to Rena. But she is
6 in the defendant's chair. They pointed to the
7 person that was in court. She remembered --
8 Ms. Anderson remembered more about when she
9 was in the Winn-Dixie parking lot, the white
10 man who passed her, than she did about the
11 person who showed up. She remembered more
12 about the purse than the person was holding --
13 than the person who took her money. She
14 didn't remember.

15 Ms. Williams. Ms. Williams was unsure
16 about all their features, all the features.

17 Detective Roberts. Detective Roberts
18 took the stand and testified before you. But
19 he also stated that he didn't follow any other
20 leads.

21 Remember earlier I told you that this was
22 about sympathy. Somebody had to be fingered.
23 Somebody had to take the fall. They chose
24 Rena Stinson to be fingered. He didn't follow
25 any other leads. He pointed to her. He put

1 her in a photo lineup. If you think back and
2 you think to all of the witnesses, their
3 recurring thing was number four. Number
4 four. They remembered the number four more
5 than they remembered the features of the
6 person who took their money. Number four.
7 But they couldn't tell you her facial
8 features. They can't remember if she was
9 light or dark. But they remembered that
10 number four. They didn't remember the
11 person. Rena Stinson is not a number. She is
12 a person. She is a person. She is not a
13 number. They couldn't even remember the
14 person who took their money. I ask you to ask
15 yourself what does that say. What does that
16 say.

17 Earlier I explained to you that you have
18 a duty to do. That when you go back to
19 deliberate and you think over everyone that
20 took this stand and you recall the testimony,
21 when it's all said and done, if there is a
22 reasonable doubt in your mind, that Rena
23 Stinson did this, you must find her not
24 guilty.

25 I am going to remind you don't get caught

1 up in sympathy. My heart goes out to these
2 women. It does. But Rena Stinson is not the
3 person who did it. She is not the person who
4 did it. And they can't remember who did it.
5 That was the only lead that was followed. And
6 these people remember a number and not a face
7 or not features. Reasonable doubt. Find her
8 not guilty.

9 MR. HUGHES: May it please the Court, Ms.
10 May, members of the jury. Ms. May says they
11 don't remember, victims don't remember who
12 took their money. I submit to you here's
13 three pieces of evidence that they did
14 remember. Carol Ray, number four, that's Ms.
15 Stinson. That's the person who took my
16 money. Her hair was different, face features
17 are the same. I am sure that female featured
18 in number four is the person that scammed me.
19 Her testimony, State's Exhibit 2, you can take
20 this back with you. Number four, the
21 defendant. She says, well, Ms. Williams
22 didn't remember. Yeah, she did. Again,
23 number four. Who is number four? Ms.
24 Stinson. Once again Ms. Emma Jean Anderson,
25 she don't remember either. The evidence is

1 that she did. Okay. This is evidence.
2 Anything entered in, such as an exhibit,
3 testimony heard from the stand, is evidence.
4 You can take it back there. You can look at
5 it. You can hold it.

6 Victims don't remember? I submit to you
7 they remember very well. She wants to say
8 forget about what happened to them three years
9 ago, that this even happened. Forget that
10 roughly a year after that they picked her out
11 of a lineup, every one of them, the same
12 person. Forget that. Let's flip to today
13 three years later. Well, they don't remember
14 every detail, therefore, they are -- she's not
15 guilty. Don't remember every detail after
16 that day three years after it happened.

17 A seventy-two, seventy-five and a
18 seventy-nine year old woman, they don't
19 remember every detail of that day, therefore,
20 let -- Ms. Anderson made a very important
21 statement. I hope y'all recall this. She
22 stated in two years some things you remember,
23 some things you don't remember. She said,
24 hey, I remember that picture. I remember she
25 is the one that took my money. You're not

1 taking fifteen hundred dollars. To some
2 people, that may not be a lot or ninety-five
3 hundred is not a lot. To them, it was
4 everything. It was all but eight dollars for
5 Ms. Williams. Ms. Ray took everything but a
6 thousand dollars.

7 Again, I am going to ask you to look
8 what's before you. Go back and look at what
9 is evidence. What did you hear. What did you
10 not hear. You didn't hear any evidence that
11 they were coached into. The evidence was show
12 it to them, tell them they may not be -- even
13 be in there. Do you see anybody you
14 recognize. Jot down how long it takes to
15 look. Move on. They pick her. They put
16 their signature on the line. They said, hey,
17 we are sure. Yeah, I signed it. That's my
18 signature. Okay. That's why they do all this
19 stuff. That's how they get a record.

20 Her picture was picked on all three of
21 them. Well, the defendant is not a number.
22 She is not a number. She is number four in
23 that picture. We know that. That's
24 undisputed. She is number four in that
25 picture. There is no evidence refuting that

1 that's her. That's the defendant. That's Ms.
2 Stinson. There is no evidence showing these
3 people didn't get their money stolen. These
4 people were victimized. They tell you it was
5 Ms. Stinson. Sure, I tell you somebody comes
6 up, approaches you, wipes out your bank
7 account. That kind of hangs on with you.

8 I will leave you with this, ladies and
9 gentlemen. No other leads. They didn't
10 follow any other leads. No other leads. Make
11 a big deal though once they identified her
12 three times, three separate people, three
13 times, they stopped their investigation.
14 Glory be, that's a problem. They should have
15 kept looking.

16 Ladies and gentlemen, those of you who
17 play golf, and I try, some people mark their
18 golf ball so they can find it. They took a
19 Sharpie, one dotted, three put their initials
20 so they can locate their ball in case they
21 lose it. If you are like me, you get to
22 feeling good and one day you sail one into the
23 woods. Okay. What a way to start. You walk
24 in there tromping around. You may find a lot
25 of golf balls. You find your ball. It's got

1 BH on it. It's my ball. I use a Titlist. My
2 ball. I hit it. I know it's my ball. Well,
3 should I then put that ball in my pocket and
4 then go look at every single other ball in the
5 woods to make sure? I have got my marking, my
6 ball. This is my ball. Do I then need to go
7 to every other ball to verify just to make
8 sure that somebody else doesn't have the exact
9 same ball.

10 I submit to you they found the golf ball.
11 They found number four. So why then should --
12 he said we have got three people that identify
13 her. We have got this picture that everybody
14 says that's her. That's it. Why then should
15 they spend more time, more money, say let's
16 examine everybody just to make sure? I submit
17 to you they were sure. Ms. Anderson, Ms.
18 Williams and Ms. Ray were sure. They told you
19 they were. I submit they were very honest in
20 what they said.

21 Based on the evidence you have heard and
22 the exhibits placed into evidence, I ask that
23 you find Ms. Stinson guilty of theft of
24 property in the first degree from Ms.
25 Anderson, theft of property first degree from

1 Ms. Ray and theft of property second degree
2 from Ms. Williams by deception exerting
3 unauthorized control, taking their money,
4 deceiving them out of their money. Go back
5 and look at the evidence, look at it, use your
6 common sense and find her guilty on all three
7 counts. Thank you.

8 THE COURT: All right. Folks, we are at
9 that point where I tell you the law that
10 applies to this case. The case is brought to
11 you via an indictment. I am supposed to read
12 the indictment to you. Hang with me.

13 Count one, the Grand Jury of said County
14 charge that, before the finding of this
15 indictment, Rena Dorsey Stinson, alias Rena D.
16 Stinson, alias Rena Dorsey, whose name is
17 otherwise unknown to the Grand Jury, did
18 knowingly obtain or exert unauthorized control
19 over, or did knowingly obtain by deception
20 control over lawful currency and/or coinage of
21 the United States of America, a better
22 description of which is unknown to the Grand
23 Jury, of some value greater than twenty-five
24 hundred dollars, the property of Emma
25 Anderson, with intent to deprive the owner of

1 the property, in violation of Section 13A-8-3
2 of the Code of Alabama, against the peace and
3 dignity of the State of Alabama.

4 Count two, the Grand Jury of said County
5 further charge that, before the finding of
6 this indictment, Rena Dorsey Stinson, alias
7 Rena D. Stinson, alias Rena Dorsey, whose name
8 is otherwise unknown to the Grand Jury, did
9 knowingly obtain by deception control over
10 lawful currency and/or coinage of the United
11 States of America, a better description of
12 which is unknown to the Grand Jury, of some
13 value greater than twenty-five hundred
14 dollars, the property of Carol Ray, with
15 intent to deprive the owner of the property,
16 in violation of Section 13A-8-3 of the Code of
17 Alabama, against the peace and dignity of the
18 State of Alabama.

19 Count four, the Grand Jury of said County
20 further charge that, before the finding of
21 this indictment, Rena Dorsey Stinson, alias
22 Rena D. Stinson, alias Rena Dorsey, whose name
23 is otherwise unknown to the Grand Jury, did
24 knowingly obtain or exert unauthorized control
25 over, or did knowingly obtain by deception

1 control over lawful currency and/or coinage of
2 the United States of America, a better
3 description of which is unknown to the Grand
4 Jury, of some value greater than five hundred
5 dollars, the property of Avaceal Williams,
6 with intent to deprive the owner of the
7 property, in violation of Section 13A-8-4 of
8 the Code of Alabama.

9 Now the indictment itself has no bearing
10 on the guilt or innocence of Ms. Stinson.
11 It's simply the process by which the case gets
12 into court. It is not evidence in this case.

13 As to that indictment, she has pled not
14 guilty. By pleading not guilty, she has put
15 the burden on the State of Alabama to prove
16 her guilt beyond a reasonable doubt.

17 Before a conviction can be had, each of
18 you must be satisfied of her guilt, otherwise
19 she is entitled to an acquittal.

20 Furthermore, she is presumed to be
21 innocent of this offense or offenses, I should
22 say. That presumption stays with her until
23 her guilt is established from the evidence
24 beyond a reasonable doubt. This presumption
25 of evidence is evidence in the case and is to

1 be considered by you along with the other
2 evidence in the case. Unless the evidence
3 convinces you beyond a reasonable doubt of the
4 proof of each and every element of the charge,
5 she is presumed innocent. We will talk more
6 about reasonable doubt to sort of try to help
7 you with that concept.

8 While the State's burden of proof is a
9 strict or heavy burden, it's not necessary
10 that guilt be proved beyond all possible
11 doubt, only required that the State excludes
12 any reasonable doubt concerning Ms. Stinson's
13 guilt.

14 A reasonable doubt is a real doubt based
15 upon reason and common sense after a careful
16 and impartial consideration of all the
17 evidence in this case. Proof beyond a
18 reasonable doubt means there has to have been
19 proof of such a convincing character that you
20 would be willing to rely and act upon it
21 without hesitation in the most important of
22 your own affairs.

23 Again, as I told you earlier, y'all are
24 the sole judges of the evidence. Let me go
25 over again with you real quick what is and

1 what is not evidence in the case. The
2 indictment that I read to you, that's not
3 evidence. Arguments and statements of
4 attorneys are not evidence. Rulings that I
5 make are not evidence.

6 What is evidence is the testimony of
7 witnesses from the witness stand who are under
8 oath, exhibits that have been allowed into
9 evidence and the presumption of innocence that
10 we have already discussed.

11 Just as you're the sole judges of the
12 evidence, you're also the sole and exclusive
13 judges of the credibility of the witnesses and
14 the weight that should be given to their
15 testimony.

16 In passing on the credibility or
17 believability of a witness, you have a right
18 to consider the following. Number one, any
19 bias, interest or prejudice that may have been
20 exhibited to you while that person testified.
21 Number two, the demeanor of the witness on the
22 stand. How did the person look, how did they
23 act while they testified, their basis for
24 testifying, how do they know the facts that
25 they have testified to. Did they have a

1 opportunity to learn and know the facts to
2 which they testified. You can accept or
3 reject any part of the testimony of any
4 witness. You may accept only the testimony
5 you consider worthy of belief. In other
6 words, if you think a witness has not been
7 completely candid with you while they
8 testified, you can disregard all of that
9 witness' testimony or you can just elect to
10 disregard that portion of the testimony that
11 you don't find to be worthy of belief.

12 Now, Ms. Stinson has chosen not to take
13 the stand. As I told you earlier, she is
14 presumed to be innocent. She is not required
15 to prove her innocence nor is she required to
16 take the stand. She has that constitutional
17 right not to testify in this case. You should
18 not infer anything prejudicial whatsoever
19 because she has not testified.

20 Let me talk to you about the specific
21 charges. Two counts of theft property first
22 degree. A person commits the crime of theft
23 of property if he knowingly -- if she
24 knowingly obtains by deception control of the
25 property of another by taking the property

1 from the person of another with the intent to
2 deprive the owner of his or her property.

3 To convict, the State must prove beyond a
4 reasonable doubt each of the following
5 elements of theft of property in the first
6 degree. Number one, that Rena Stinson
7 knowingly obtained by deception control over
8 the property of Emma Anderson or Carol Ray --
9 let's see over the property of Emma Anderson
10 or Carol Ray, more specifically their money.

11 Number two, that the defendant took the
12 property from the person of another and,
13 three, that the defendant acted with intent to
14 deprive the owner of her property. When acts
15 with intent to deprive another of her
16 property, when she acts with the purpose of
17 causing that result, the term obtaining
18 control over property includes but is not
19 necessarily the taking or carrying away or
20 itself conveyance of interest or in possession
21 of property. The deception occurs when a
22 person knowingly creates or confirms another's
23 impression which is false and which the
24 defendant is not to be believed to be true or
25 a false impression which the defendant

1 previously has created or confirmed.

2 If you find from the evidence that the
3 State has proved beyond a reasonable doubt
4 each of the above elements of the theft of
5 property first degree as charged, then you
6 shall find the defendant guilty of theft of
7 property in the first degree.

8 On the other hand, if you find that the
9 State has failed to prove beyond a reasonable
10 doubt any one or more of the elements of
11 offense of theft of property first degree,
12 then you cannot find Ms. Stinson guilty of
13 theft of property first degree. Also
14 count two of theft property second degree.
15 The difference between first and second degree
16 is the value of the property taken. A person
17 commits the crime of theft of property if he
18 knowingly obtains by deception control over
19 property of another with intent to deprive the
20 owner of property. The theft of property
21 which exceeds two hundred fifty but does not
22 exceed one thousand constitutes theft property
23 second degree.

24 To convict, the State must prove beyond a
25 reasonable doubt the following elements of

1 theft of property second degree. That Rena
2 Stinson knowingly obtained by deception the
3 control over the property of Ms. Williams,
4 more specifically her money, that such
5 property exceeded two hundred fifty dollars in
6 value but did not exceed a thousand dollars in
7 value and that Ms. Stinson acted with the
8 intent to deprive the owner of her property.

9 If you find from the evidence that the
10 State has proved beyond a reasonable doubt
11 each of the above elements of the offense of
12 theft property second degree as charged, then
13 you shall find the defendant guilty of theft
14 of property second degree.

15 On the other hand if you find that the
16 State has failed to prove beyond a reasonable
17 doubt either one or more of the elements of
18 the offense of theft of property second
19 degree, then you cannot find the defendant
20 guilty of theft of property in the second
21 degree.

22 In a moment we are going to let you go
23 back into the jury deliberation room back
24 here. When you do so, I want you to use your
25 knowledge of people and their affairs. That's

1 what we call common sense. That's why we have
2 got y'all in here today is to bring your
3 common sense to bear in this case. In
4 arriving at your verdict, do not allow
5 sympathy, prejudice or emotions to influence
6 you.

7 Furthermore, don't base your verdict on
8 any preconceived, popular or unpopular
9 verdict. As you know, your verdict is
10 strictly based on the evidence presented and
11 the law that applies to the case.

12 I will explain to you before you could
13 reach a verdict all twelve of you must agree
14 on the verdict. It cannot be a split
15 verdict. It must be a unanimous decision.

16 The first thing you need to do is select
17 someone to act as your foreperson. A
18 foreperson's opinion is not entitled to any
19 more weight than anybody else's opinion but
20 simply to act as spokesperson. Discuss the
21 case. If you have a question, write the
22 question down on a piece of paper, knock on
23 the door at the other end of the room and we
24 will come get the question. That's about the
25 last thing I can promise you is that we will

1 come get the question. Whether we answer it
2 or not, I can't tell you that. I will give
3 you some perimeters.

4 If it's a question about the facts of the
5 case, who said what, who did what, y'all are
6 the judges of the facts. So I probably can't
7 answer a question about the facts in this case
8 because that's y'all's job. If it's a
9 question about the law in the case and you
10 need me to reread some of what I said to you
11 just now, I could probably do that for you.
12 Only thing I assure you is we won't ignore
13 you. I can't promise we can answer it.

14 But once you have reached a verdict, have
15 your foreperson sign the verdict form, print
16 their name, knock on this door, come get us.
17 This is a verdict form. It reads count one,
18 we, the jury, find the defendant guilty of
19 theft of property first degree as to Emma
20 Anderson as charged in the indictment, or we,
21 the jury, find the defendant not guilty. See
22 count one you have to find guilty -- make a
23 finding of guilty or not guilty.

24 Count two, we, the jury, find the
25 defendant guilty of theft of property first

1 degree should be as to Carol Ray as charged in
2 the indictment, or we, the jury, find the
3 defendant not guilty.

4 Again, with regard to count two, Ms. Ray,
5 you need to make a finding either guilty or
6 not guilty as you find the evidence to be.

7 Count four, we, the jury, find the
8 defendant guilty of theft of property second
9 degree as to Evaceal Williams as charged in
10 the indictment, or we, the jury, find the
11 defendant not guilty.

12 So you are dealing with three counts,
13 numbered counts one, two, four. Then you need
14 to make a finding as to each count. When
15 y'all have reached a verdict and the
16 foreperson signs his name, prints his name,
17 knock on the door and we will come get you.

18 The last thing we need to do is Mr.
19 Loucks, you were selected as the alternate in
20 this case. So we are going to excuse you
21 because we are only allowed to send twelve
22 folks back there. Some people say, you mean I
23 sat through all this and I don't get to make
24 the decision. Some people are like, good,
25 glad to go. I don't know how you feel about

1 it. But we keep an alternate, just so y'all
2 will know, sometimes people don't come back
3 from lunch. Sometimes people get sick or they
4 have a family emergency. And we can't go
5 forward without twelve people. So to keep
6 from having to start all over, we keep a
7 spare, for lack of a better term.

8 Anything from either side?

9 (No response.)

10 THE COURT: Okay. Go on back to the jury
11 assembly room. Mr. Loucks, wait on us just a
12 second, please, sir.

13 (Outside jury's presence.)

14 THE COURT: Second degree is five hundred
15 dollars to a thousand?

16 MR. HUGHES: Twenty-five hundred.

17 THE COURT: Mr. Loucks, I just want to
18 tell you again I hope you don't feel like you
19 wasted your time. We appreciate you being
20 here. I guess you're excused for the rest of
21 the day. Call the code-a-phone tonight and
22 they will let you know if you are needed the
23 rest of the week.

24 JUROR: I can go.

25 THE COURT: The lawyers may want to talk

1 to you. You're welcome to discuss the case
2 with them or you if you don't want to talk
3 about it with them, I am sure they will
4 respect your wishes in that regard. Thank
5 you, sir.

6 (Mr. Loucks exited the courtroom.)

7 THE COURT: Want me to read the whole
8 charge again?

9 MR. HUGHES: Just clarify the amount.

10 MS. MAY: Satisfied.

11 THE COURT: Okay. Bring them back in.

12 (In the presence of the jury:)

13 THE COURT: I messed something up is the
14 long and short of it. I apologize to
15 everybody. I need to recharge y'all a little
16 bit on theft of property first degree and
17 theft of property second degree. I told you
18 the difference was the amounts.

19 JUROR: We know.

20 THE COURT: Did y'all go to law school?
21 Y'all are quicker on this than I am. Let me
22 clarify.

23 Theft of property first degree, the
24 person commits the crime of theft of property
25 in the first degree if he knowingly obtains by

1 deception control of the property of another
2 by taking the property from the person of
3 another with the intent to deprive the owner
4 his or her property.

5 Theft of property which exceeds
6 twenty-five hundred dollars in value
7 constitutes theft of property in the first
8 degree.

9 Second degree is the same thing except
10 the theft of property in the second degree
11 means the value of property exceeds five
12 hundred dollars in value but does not exceed
13 twenty-five hundred dollars in value. That's
14 theft of property in the second degree.
15 That's the difference between the two. Okay.
16 I apologize for that. If it's the only
17 mistake I made today, I will be all right.
18 Y'all go back and start your --

19 JUROR: We did talk about that first
20 thing.

21 THE COURT: All right.
22 (Outside jury's presence.)

23 THE COURT: Anything from anybody? Want
24 to save me again?

25 MR. HUGHES: Satisfied.

1 (Outside jury's presence.)

2 THE COURT: We have a question from the
3 jury that says, can we see the original police
4 report with descriptions of flim flam and also
5 question that says where did the photos come
6 from and where are the still shots from
7 Wal-Mart. In response to that question the
8 parties have all agreed that we will send in a
9 following written response to the question.
10 It just says all the evidence that you're to
11 consider has been presented.

12 (Jury has a question at 4:37 p.m.)

13 (In the presence of the jury:)

14 THE COURT: Ladies and gentlemen, I read
15 your question, could we see the transcripts.
16 I am not real sure you mean transcripts of
17 what the witnesses said in here today. No,
18 there are no transcripts of what the witnesses
19 said today. There could be in a week or two.
20 You need to rely on your own recollection what
21 the witnesses testified to. I am sorry. Yes,
22 sir?

23 JUROR: There was something said about
24 her being recognized in the courtroom or in
25 the courthouse. I believe the officer said

1 something and we were not really clear what
2 that was. How she was recognized or what
3 was -- no way for us to understand that.

4 THE COURT: If the question is about the
5 facts, the question is about what a witness
6 has testified to, I can't help you with that.
7 It's just y'all have to rely on your own
8 recollection what the witnesses testified to.

9 JUROR: I have a question, please. Was
10 something mentioned about there was a bank
11 shot at one of the banks that was used, an
12 I.D. for her?

13 THE COURT: Y'all are asking about the
14 facts of the case. I can't discuss the facts
15 of the case with you. Okay? That's the
16 best -- I know y'all are frustrated. But
17 those are the limits of what I can do. I
18 can't come in here and say, well, that witness
19 said this and that witness said that. That's
20 y'all's job, not my job. Sorry, folks. If
21 y'all will go back and have at it some more,
22 please. Just for y'all's -- we are getting up
23 to five o'clock. It's up to y'all how late
24 y'all want to stay. When y'all want to go,
25 just y'all let us know what y'all's wishes are

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1 in that regard. If y'all want to go to a
2 certain time and stop and come back tomorrow,
3 we will be there with you. Whatever y'all
4 feel like doing. That's something you need to
5 talk among yourselves. Okay?

6 (Court adjourned for the day at 5:05
7 p.m.)
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1 PROCEEDINGS

2 AUGUST 23, 2005

3 COURTROOM 3-A

4 (The jury knocked with a verdict at ten
5 a.m.)

6 (In the presence of the jury:)

7 THE COURT: Everybody have a seat. I
8 have been handed the verdict form which I will
9 read in the record. Circuit Court, State of
10 Alabama versus Rena Stinson, count one, we,
11 the jury, find the defendant Emma Anderson
12 guilty of theft of property first degree as
13 charged in the indictment. Count two, we, the
14 jury, find the defendant guilty of theft of
15 property first degree as to Carol Ray as
16 charged in the indictment. As to count four,
17 we, the jury, find the defendant guilty of
18 theft of property second degree as to Evaceal
19 Williams as charged in the indictment. I'll
20 ask each of you if that's your verdict.

21 (The Court polled the jury and each juror
22 responded affirmatively.)

23 THE COURT: The Court adjudicates the
24 defendant guilty of two counts of theft of
25 property first and one count of theft property

1 second. We will do the sentencing September
2 19th.

3 Ladies and gentlemen, thank you so much
4 for your jury service. I can give you a
5 little bit of good news, y'all are released
6 for the rest of the day. Call the
7 code-a-phone tonight. It will give you
8 additional instructions.

9 Ms. Stinson, you will be going back to
10 Department of Corrections. You will be
11 brought back for the sentencing.

12 Thank you so much for your jury service.
13 We can't do it without you.

14 (Court adjourned.)
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1 CERTIFICATE OF COMPLETION OF REPORTER'S
2 TRANSCRIPT
3 CIRCUIT COURT OF MONTGOMERY COUNTY,
4 ALABAMA, FIFTEENTH JUDICIAL CIRCUIT

5 STATE OF ALABAMA

6 VS. CASE NUMBER CC-04-1694

7 RENA STINSON

* * * * *

8 I, JAN GOSS, OFFICIAL COURT REPORTER
9 FOR THE FIFTEENTH JUDICIAL CIRCUIT OF ALABAMA
10 HEREBY CERTIFY THAT I HAVE THIS DATE COMPLETED
11 AND FILED WITH THE CLERK OF THE TRIAL COURT THE
12 ORIGINAL AND THREE COPIES OF A TRUE AND CORRECT
13 TRANSCRIPT OF ALL THE EVIDENCE AND MATTERS
14 TAKEN IN THE ABOVE-STYLED CAUSE. ALL PAGES ARE
15 NUMBERED SERIALLY, PREFACED BY AN INDEX AND
16 ENDING WITH THE NUMBER APPEARING AT THE TOP OF
17 THIS CERTIFICATE.

18 I FURTHER CERTIFY THAT A COPY OF THIS
19 CERTIFICATE HAS THIS DATE BEEN SERVED ON THE
20 CLERK OF THE APPELLATE COURT, THE DISTRICT
21 ATTORNEY'S OFFICE, THE ATTORNEY GENERAL'S OFFICE,
22 AND COUNSEL FOR THE DEFENDANT.

23 DATED THIS 12th DAY OF January, 2006.

24

25

Jan Goss
JAN GOSS
OFFICIAL COURT REPORTER

IN THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR MONTGOMERY COUNTY
MONTGOMERY, ALABAMA

STATE OF ALABAMA,)
Plaintiff,)
VS.) CRIMINAL ACTION
RENA STINSON,) NO. 04-1694
Defendant.)

-----/
TRANSCRIPT OF SENTENCING
MONDAY, OCTOBER 24, 2005

MONTGOMERY COUNTY COURTHOUSE
COURTROOM 3-A

BEFORE: THE HON. TRUMAN M. HOBBS, JR.
CIRCUIT JUDGE

APPEARANCES

FOR THE STATE:
BRANDON HUGHES, ESQUIRE
MONTGOMERY, ALABAMA

FOR THE DEFENDANT:
TOMMY GOGGANS, ESQUIRE
MONTGOMERY, ALABAMA

JUDY E. SHELTON
OFFICIAL REPORTER



* * * * *

THE COURT: Do you want a formal sentencing hearing?

MR. GOGGANS: No, sir. We will proceed on.

THE COURT: Okay. What do you want to say?

MR. GOGGANS: Your Honor, I have reviewed the presentence report in this case. As the Court is aware, I was not the trial lawyer in the case. I am a little bit behind the curve on addressing any of those issues, which actually are issues for another day anyway.

The presentence report indicates on the health aspects that there are heart problems. Additionally -- this is a little bit more recent. There are some issues with cancer as well which is more recent. I have some records here which I am showing the prosecutor indicating that this is a fairly recent diagnosis.

Ms. Stinson, what is the diagnosis and treatment plan on that?

1 THE DEFENDANT: When I left
2 Julia Tutwiler Prison, they had got a
3 report back in March and hadn't done
4 anything about it. I had breast cancer.
5 So when I got back in September, my
6 husband rushed me to the doctor because I
7 had been in prison for six months with a
8 lump up under my nodes that hadn't been
9 treated. So when I went to see the
10 cancer center, they had a biopsy done.
11 They said the cancer had -- was in my
12 breast. Had moved to my lungs, my bone
13 sternum and the back of my neck because
14 they didn't do anything about it while I
15 was in prison.

16 I went to Dr. Franco. My lungs
17 was eighty percent collapsed, and he had
18 to go in and drain some fluid off of my
19 lungs, Dr. Franco did, because they
20 hadn't treated me for my collapsed lung
21 before I got out of prison. So now I am
22 going through therapy with Dr. Barnes,
23 and we got some alternative therapy we're
24 working on, plus hormone therapy, because
25 I didn't know whether or not how the

1 chemotherapy would work pending with what
2 was going on with me now. So they are
3 doing some alternative therapy.

4 But while I was in prison, they
5 did not send me for care to catch this
6 tumor when they first saw it on the
7 mammogram. So when I got out, I had to
8 go right away and have all this done. So
9 that is what is going on with my medical.

10 MR. GOGGANS: Ms. Stinson, have
11 they told you about how long this
12 treatment course will last?

13 THE DEFENDANT: Well, right now
14 it is indefinite because they say I have
15 stage four cancer, and that's all I
16 know. They don't say it is curable but I
17 have faith and I am trusting that God
18 -- that he still can heal me. I can't
19 give up on that regardless how this
20 sickness spread throughout my body. I
21 can't give up and give into it. But I
22 had -- they didn't give me treatment.
23 They didn't send me off when I was at
24 Julia to get any care for it. It had
25 just metastasized, they said.

1 THE COURT: Anything else from
2 the defense?

3 MR. GOGGANS: No, sir, Your
4 Honor.

5 MR. HUGHES: Just to state,
6 Judge, Ms. Carol Ray, one of the victims,
7 is here. She does not wish to speak.
8 There were three -- actually, four
9 victims in this case. One of the victims
10 was not able to be here for Court. So
11 her case was nolle prossed.

12 The defendant, Ms. Stinson, was
13 found guilty of three counts of theft.
14 As the Court was aware and heard in the
15 trial, basically she preyed on elderly
16 women and essentially wiped out their
17 savings account. The state would just
18 ask for a sentence commensurate with that
19 act.

20 MR. GOGGANS: Your Honor, as I
21 said, I have reviewed the presentence
22 report. I understand the sentencing
23 range in the case. They did recommend a
24 split sentence in light of the -- like I
25 say, the trial issues are another issue

1 for another day or another court perhaps,
2 but I do think the recommendation is not
3 unreasonable.

4 THE COURT: Let's see. You are
5 invoking the habitual offender?

6 MR. HUGHES: Yes. Three prior
7 felonies.

8 MR. GOGGANS: With the three
9 prior felonies, that makes the sentencing
10 range where the --

11 THE COURT: Well, I will give
12 you a choice. You want a split or not?

13 MR. GOGGANS: The alternative
14 would be a straight twenty.

15 THE COURT: Yes.

16 MR. GOGGANS: We would rather
17 have the split.

18 THE COURT: Okay. Twenty split
19 five with five years probation. Court
20 costs. Attorney fees, a hundred fifty
21 dollars. Crime Victims, fifty dollars.
22 Is there restitution?

23 MR. HUGHES: Yes, Your Honor.
24 It is twenty-two thousand and sixty
25 dollars and sixteen cents. I apologize,

1 Judge. That's the amount less one of the
2 victims that did not show up. Can I just
3 leave that open for today? I have got to
4 sort all this out. There is one victim
5 that did not show up. She does not have
6 to pay restitution for that victim.

7 THE COURT: Okay. Do you
8 understand what this -- do you understand
9 the sentence, Ms. Stinson?

10 THE DEFENDANT: Could I say
11 something, Judge.

12 THE COURT: Sure.

13 THE DEFENDANT: Judge, I stand
14 before you and I have been before this
15 Court before three times because I had a
16 gambling problem, and I wrote checks.
17 That's what I did. I actually wrote
18 checks.

19 The first time I heard about
20 this was when it was brought to my -- I
21 never was here for an arrangement (sic).
22 I never was here for a preliminary
23 hearing. Honestly, Judge, when they came
24 to see me while in Julia Tutwiler Prison,
25 they said my facial expression favored

1 the person who they was looking for.

2 God knows I did not do this,
3 sir. I am sorry I favor the person who
4 did it but I have never met any of those
5 ladies. During 12/3 when this was going
6 on, sir, I was working on a job. I had a
7 contract with the state. I had never had
8 a chance to even get on the stand to
9 testify. My sympathy and heart goes out
10 to these ladies. My attorney told me --

11 THE COURT: Ms. Stinson, I'm
12 not going to retry the case.

13 THE DEFENDANT: Okay. I am not
14 asking you to retry the case. What I am
15 trying to add, I never knew all of this
16 until I sit in your courtroom and heard
17 no one -- I never came before you to
18 plead guilty or not guilty.

19 MR. GOGGANS: Ms. Stinson, that
20 is something we will take up at another
21 motion another day.

22 THE COURT: Brandon, did we
23 ever arraign her?

24 MR. HUGHES: I have it down
25 that she was arraigned on December 20th,

1 2004. Winston Durant was appointed.

2 THE DEFENDANT: I was at Julia
3 Tutwiler Prison. I never appeared from
4 Julia Tutwiler for an arrangement or
5 preliminary hearing or nothing, no, sir.

6 THE COURT: Okay. Look, the
7 jury found you guilty. That's all -- I
8 am giving you -- the minimum sentence you
9 can get is twenty years.

10 MR. HUGHES: The only thing I
11 would say, Judge, you assessed a hundred
12 and fifty dollar attorney fee. I think
13 she had a --

14 MR. GOGGANS: I think the
15 previous counsel was retained, I believe.

16 THE COURT: Was it?

17 MR. GOGGANS: Yes.

18 THE COURT: All right. Thank
19 you for that.

20 MR. GOGGANS: Your Honor, we
21 give oral notice of appeal at this time
22 and request an appeal bond be set.

23 (END OF PROCEEDINGS)

24

25

CERTIFICATE

STATE OF ALABAMA)
COUNTY OF MONTGOMERY)

I, JUDY E. SHELTON, OFFICIAL
COURT REPORTER IN AND FOR THE FIFTEENTH
JUDICIAL CIRCUIT, MONTGOMERY COUNTY,
ALABAMA, DO HEREBY CERTIFY THAT I
REPORTED IN MACHINE SHORTHAND THE
FOREGOING HEARING AS STATED IN THE
CAPTION HEREOF; THAT MY SHORTHAND NOTES
WERE LATER TRANSCRIBED BY ME OR UNDER MY
SUPERVISION, AND THAT THE FOREGOING PAGES
REPRESENT A FULL, TRUE AND CORRECT
TRANSCRIPT OF SAID PROCEEDINGS; THAT I AM
NEITHER KIN NOR OF COUNSEL TO ANY PARTIES
IN THIS PROCEEDING NOR IN ANY WAY
INTERESTED IN THE RESULTS THEREOF.

DATED THIS THE 3rd DAY OF January
2006.

Judy E. Shelton

JUDY E. SHELTON

OFFICIAL COURT REPORTER

APPELLATE DOCKET NUMBER CC-04-1694

IN THE COURT OF CRIMINAL APPEALS OF ALABAMA

RENA STINSON

APPELLANT

v.

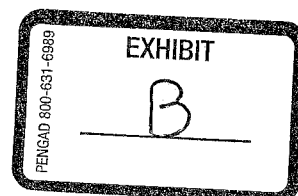
STATE OF ALABAMA

APPELLEE

ON APPEAL FROM THE
CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA
Case Number: CC-04-1694

BRIEF AND ARGUMENT
OF THE APPELLANT

RICHARD K. KEITH (KEI003)
Attorney for Appellant
KEITH & HAMM, P.C.
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STATEMENT REGARDING ORAL ARGUMENT

The Appellant does not request oral argument is these proceedings.

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STATEMENT OF THE JURISDICTION

The Court of Criminal Appeals of Alabama has jurisdiction to hear this appeal pursuant to § 12-3-10, *Code of Alabama 1975*. The Circuit Court of Montgomery County, Alabama, had proper jurisdiction to hear the Appellant's criminal jury trial held on August 22, 2005 and the Appellant's sentencing hearing held on October 24, 2005, before the Honorable Truman S. Hobbs. The Appellant timely filed her Notice of Appeal with this Honorable Court on October 24, 2005. The undersigned filed his Notice of Appearance as counsel on appeal on November 30, 2005.

TABLE OF AUTHORITIES

CASES

State

Pearson v. State, 601 So.2d 1119 (Ala.Crim.App. 1992) 12, 18, 20, 21

Benson v. State, 473 So.2d 1131 (Ala. Cr. App., 1985) 17

STATUTES

§12-3-10, Code of Alabama 1975 iv

§13A-8-3, Code of Alabama 1975 1, 4

§13A-8-4, Code of Alabama 1975 1, 4

§15-15-1, Code of Alabama 1975 16

RULES

Rule 9.1, A.R.Cr.P. 15

Rule 14.1, A.R.Cr.P. 13

Rule 14.2, A.R.Cr.P. 11, 17

CONSTITUTIONS

Alabama Constitution of 1901, Art. 1 § 6 17

STATEMENT OF THE CASE

Appellant Rena Stinson was indicted on July 4, 2004 under a four (4) count indictment for Theft I and Theft II in violation of **§ 13A-8-3 and § 13A-8-4, Code of Alabama 1975**. (C 7, 8). Her case was subsequently set for trial before the Honorable Judge Truman S. Hobbs in the Circuit Court of Montgomery County, Alabama. (C 2).

Trial commenced on August 22, 2004, and was submitted to the jury the following day. The jury found the Appellant guilty of two counts of Theft I and one count of Theft II in violation of **§ 13A-8-3 and § 13A-8-4, Code of Alabama 1975** on August 23, 2005. (C 14). The sentencing hearing was set for September 19, 2005. (C 2). Sentencing commenced on October 24, 2005. (S 1).

At sentencing, the Court sentenced Appellant to three (3) twenty year split to serve five years sentences to be run concurrently. (C 2). Appellant was also ordered to pay restitution in the amount of \$22,060.16 and \$50.00 to the Crime Victim's Compensation Fund. (C 2).

The Appellant timely filed her Notice of Appeal with this Honorable Court on October 24, 2005. (C 2). The undersigned filed his Notice of Appearance as Appellant's counsel on November 30, 2005.

STATEMENT OF THE ISSUES

I.

WHETHER THE TRIAL COURT ABUSED ITS DISCRETION
IN DENYING THE DEFENDANT'S STATUTORY RIGHT TO
ARRAIGNMENT?

II.

WHETHER THE DEFENDANT'S CONVICTIONS FOR THEFT
1 AND THEFT 2 WERE AGAINST THE SUFFICIENCY OF
THE EVIDENCE PRESENTED AT TRIAL?

STATEMENT OF THE FACTS

Appellant Rena Stinson (hereinafter "Stinson") was indicted, on July 9, 2004 under a four (4) count indictment for Theft I and Theft II in violation of § 13A-8-3 and § 13A-8-4, *Code of Alabama 1975*. On December 20, 2005, Ms. Stinson's presence was waived as to her arraignment, without her knowledge or signature, and she never received an arraignment at any later date. Her case was set before the Honorable Judge Truman Hobbs in the Circuit Court of Montgomery County, Alabama. A jury was struck on August 22, 2005 and trial commenced on that day.

The factual basis for the Appellant's conviction stems from the lack of positive identification at trial. The Appellant was found to have been involved in the thefts of property by "flim-flam" scams, whereby the jury found that trial identifications of the defendant were sufficient not to acquit Stinson on all three counts tried.

The State first called victim Carol Ray to testify Carol Ray to testify concerning her account of the theft on April 9, 2003. (R 32). Ms. Ray testified that

she was returning a shopping buggy in the Wal-Mart parking lot on Atlanta Highway at approximately 1:30 p.m. when the thief approached her (R 33). The thief told her she had found a bag full of money and would split it with Ms. Ray upon getting advice from her friend, an attorney. (R 35-36). Upon convincing Ms. Ray to retrieve money from her bank, the thief took the money from her to take it to the attorney in Wal-Mart, and then ran off with Ms. Ray's money, not to be seen again. (R 39). Ms. Ray then proceeded to identify from a police photograph-lineup the woman she previously identified, two years prior to the court date. (R 42). Upon cross-examination, Ms. Ray admitted that she was not sure if the photographs she saw in court were the same as the photographs shown to her at the police station:

Q: Are you positive that those are the same photographs that were shown to you at the police station?

A: I'm not positive. It looked like them but that's been a long time ago.

Q: You're right, that has been a long time ago.

A: A long time ago.

Q: It resembles them but you're not quite sure that that's them?

A: I'm not one hundred percent positive now on what I saw two years ago.

(R 46-47). Ms. Ray further testified that the thief had a good bit of makeup on, a light-complected black female and was a little bit taller than her but nothing more specific. (R 48-49).

The state then called their second witness, Ms. Emma Jean Anderson. (R 51). Ms. Anderson is a seventy-two year old woman who had problems identifying Stinson in court. (R 52). When asked if she recognized the person that took her money on April 28, 2003, Ms. Anderson said "it's been so long" and said she was not sure if the thief was in the court room and never positively identified Stinson in court. (R 52). Further demonstrating lack of memory, Ms. Anderson stated, before that moment she never saw the line-up (State's exhibit #2) that the State purported that she was previously shown. (R 57).

After having trouble identifying certain parts of the correct dates on State's exhibit #3, which was the information card she signed after viewing a lineup on

the date of the crime, Ms. Anderson did recognize her own handwriting but admitted she did not know if the pictures were the same. (R. 59). Ms. Anderson only read from the paper that she picked number four from the information card after leading questions prompted her to admit so. (R 59).

Upon cross-examination, Ms. Anderson said she did not remember any features of the thief except "the hair was different" from the line-up photos, and that she could not identify the thief on her own. (R 62).

The State then called its third witness, Ms. Eva Williams. (R 62). Ms. Williams recalled the same facts surrounding the Wal-Mart scam, except she was in the parking lot of Sears. (R 63). Ms. Williams was told to go to Burlington Coat factory where this time, the supposed office manager would take the serial numbers from the found money. (R 66). Ms. Williams went to MAX credit union and withdrew \$1500 from her account.

Ms. Williams then picked out Stinson's picture from State's exhibit 4, another line-up, but didn't remember signing the identification information card, until leading questions prompted that response. (R 71-

72). Upon cross-examination, Ms. Williams admitted that she did not remember any facial features of the thief, but only that her teeth were not straight and she had a wig (R. 73). Further proving she did not remember who took her money; Ms. Williams said she was not sure of the skin complexion of the thief. (R 74). Then upon re-direct, Ms. Williams was asked to identify the thief in court, stating she "thinks that is the woman" and could not describe anything distinguishing Stinson as the thief. (R 75).

The State then called its fourth and final witness, Detective Jason Roberts. (R 76). Detective Roberts personally saw Stinson and used her photo from the police database in the line-ups, but did not question her until later. (R 79). After compiling the line-up photos for the victims to view, all three photo-arrays put Stinson in the fourth position, and all three victims picked number four. (R 81). Upon questioning Stinson after these identifications, Stinson denied all allegations. (R 83). However, against an irrelevancy objection by Stinson's attorney,

the court allowed Detective Roberts to say that Stinson told him she had a gambling problem. (R 85).

Defense counsel then moved for a directed verdict which was denied. Upon that denial, the defense rested and renewed their motion to another denial, concluding the State and Defense cases. (R 88).

The jury was then charged with two counts of Theft I and one count of Theft II, and ultimately ruled Stinson guilty on all three counts. (R 121). The jury came to this conclusion after admitting to the judge that they were not sure on the facts upon which they convicted Stinson. (R 119). One juror told the judge that they were not sure on the actual identification on Stinson by a testifying witness, and the judge admonished them to decide without correct knowledge of all the facts, and told the jury it was getting close to 5:00 p.m. and time to go. (R 119-120). Here, the court learned of the heart problems and newly developed cancer attacking Stinson. (S 2). The court also was informed that Stinson was never actually arraigned; yet still, the court gave Stinson twenty years in prison. (S 9). Additionally Appellant Stinson was ordered to

pay \$150 attorney's fees and \$22,060.16 in restitution
(CAS 2).

STATEMENT OF THE STANDARD OF REVIEW

I.

WHETHER THE TRIAL COURT ABUSED ITS DISCRETION
IN DENYING THE DEFENDANT'S RIGHT TO AN
ARRAIGNMENT?

This issue should be reviewed *de novo* as a failure to arraign the Appellant is not harmless error under Rule 14.2 (e), A.R.Cr.P., because the committee comments state that a plea of not guilty can only be entered when acknowledged by a defendant, through a written plea. This acknowledgement can only be satisfied by the receipt of a written copy of the charge against that defendant. None of these statutory requirements were met and thus the Appellant requires a trial *de novo*.

II.

WHETHER THE DEFENDANT'S CONVICTIONS FOR THEFT
I AND THEFT II WERE AGAINST THE SUFFICIENCY OF
THE EVIDENCE PRESENTED AT TRIAL?

"A reversal based on the weight of the evidence... draws the appellate court into questions of credibility. The 'weight of the evidence' refers to a 'determination' by the trier of fact that a greater amount of credible evidence supports one side of an

issue or cause that the other." Tibbs v. Florida, 457
U.S. 31, 37-38, 102 S.Ct. 2211...(1982)...." Pearson v.
State, 601 So.2d 1119 (Ala.Crim.App. 1992).

SUMMARY OF THE ARGUMENT

I.

THE TRIAL COURT ABUSED ITS DISCRETION IN DENYING THE DEFENDANT'S RIGHT TO RIGHT TO ARRAIGNMENT.

Ms. Stinson's due process was denied as her presence at her arraignment was waived without her express consent and she was never given opportunity to be heard before trial. The State charged Ms. Stinson with four counts of Theft, which the jury convicted her on the three brought before them.

II.

THE DEFENDANT'S CONVICTIONS FOR THEFT I AND THEFT II WERE AGAINST THE SUFFICIENCY OF THE EVIDENCE PRESENTED AT TRIAL.

The evidence and testimony presented to the fact-finder was insufficient to warrant Stinson's convictions for Theft I and Theft II. Though Stinson neither testified nor presented evidence or testimony on her behalf (as she was not required to), the presumption of innocence remains constant throughout. Each of the three victim's testimony was incredible, as none could positively identify Stinson without pictures

that two of three witnesses did not remember seeing the first time.

ARGUMENT

I.

**THE TRIAL COURT ABUSED ITS DISCRETION IN DENYING
THE DEFENDANT'S RIGHT TO AN ARRAIGNMENT.**

Appellant Stinson did not sign any waiver of arraignment, nor was she permitted to appear at her scheduled arraignment, on December 20, 2004, and thus did not receive mandatory due process as afforded by the laws of Alabama. (CAS 11)(S 8, 9).

According to **Rule 9.1 (a), A.R.Cr.P.**, the defendant has the right to be present at the arraignment, along with every other stage of the trial. **Rule 9.1 (b), A.R.Cr.P.**, specifically states that the defendant may only waive their right to be present at any proceeding in the following manner: (i) With the consent of the court, and by an understanding and voluntary waiver in open court, or by a written consent executed by the defendant, and by the defendant's attorney of record, filed in the case. Section (ii) states that the only other way to waive arraignment is that the defendant's absence be voluntary and that the defendant have notice of the time and place of the proceeding and was informed of the right to be present.

Stinson was not afforded the opportunity to an arraignment, nor any notice to that arraignment. Therefore, the denial of her appearance, much less notice to appear, severely abrogated her due process under ARCP, Rule 14.1. Section (a) provides that no defendant shall be tried for the commission of any misdemeanor or felony offense until (s)he has been arraigned in open court. Section (b) provides exceptions to this rule, including a waiver by defendant's counsel and a plea of not guilty, signed by the defendant and counsel...acknowledging receipt by the defendant of a copy of the charge against him.

The committee comments to Rule 14.2 further state that satisfaction of the not-guilty plea entered is only met when a written copy of the defendant's written plea of not guilty is acknowledged by the defendant. Appellant Stinson never was afforded the opportunity to plea not guilty. Furthermore, because she did not stand mute before a judge, **§15-15-1, Code of Alabama 1975**, does not apply, and the court was not allowed to enter a not guilty plea for her. She never signed a written plea, not allowing her to receive a written copy of

that plea, and thus her acknowledgement was therefore impossible, and no satisfaction of **Rule 14.2, A.R.Cr.P.**, could be had.

Stinson never received any notice of arraignment (violating the requirement set out by Art. 1, §6 of the Alabama Constitution of 1901), nor did she receive the opportunity to waive that arraignment. Because she was never made aware of the charges in open court, nor was she given the opportunity to plea guilty or not guilty and no signature of hers appeared on any waiver of any kind, no acknowledgement of the receipt of the charges against her were known to Stinson, thus statutorily violating her due process under the Alabama Rules of Criminal Procedure.

Alabama upholds that when arraignment is not waived, the resulting conviction is invalid when the counsel brings the issue of failure to arraign at trial. Benson v. State, 473 So.2d 1131 (Ala. Cr. App., 1985). While Stinson's counsel did not bring the issue at trial, she did herself to the judge, who dismissed it quickly at the end of the trial record. By the Article 1, §6 of the Alabama Constitution, the

Alabama Rules of Criminal Procedure, and the case law of the state, Stinson is entitled to an trial *de novo* as a matter of law, for the lower court's failure to afford her an arraignment, or even the notice and opportunity to be heard through a waiver, which she never was given the option to consider. The court did not recognize this during trial, even when Stinson brought it to the court's attention, and for this failure, the law entitles her to a new trial.

II.

THE DEFENDANT'S CONVICTIONS FOR THEFT I AND THEFT II WERE AGAINST THE SUFFICIENCY OF THE EVIDENCE PRESENTED AT TRIAL.

Appellant Stinson maintains that the evidence presented against her at trial was not sufficient to support her convictions for Theft I and Theft II.

A conviction rests upon insufficient evidence when, even after viewing the evidence in the light most favorable to the prosecution, no rational fact-finder could have found the defendant guilty beyond a reasonable doubt." Pearson v. State, 601 So.2d 1119 (Ala.Crim.App. 1992). The evidence in the case against Stinson not only did not prove guilt beyond a

reasonable doubt, but did not present one testimony that was not overshadowed by reasonable doubt.

The State first called victim-witness, Carol Ray to testify to the "flim-flam" scam, which deprived her of \$9500. Ms. Ray pointed to the defendant's chair, to identify Stinson, but said that she "had a different hair." Ms. Ray picked out "number four" as the other witnesses, did as well, even when they didn't remember the pictures, themselves. On cross-examination, Ms. Ray did admit that she was not sure that the photographs are even the same as the ones she saw previously, because it had been two years since the event. Ms. Ray then told the jury that she was actually not sure of what she saw two years ago, but that Stinson had "like features" and that was the extent of her memory, as Ms. Ray is seventy-five years old.

The State then called Emma-Jean Anderson, who is seventy-two years old. Ms. Anderson expressly told the court she could not identify Stinson as the person that scammed her. Ms. Anderson did not remember who she saw, nor what she heard. Ms. Anderson even stated that she had never seen the line-up that she supposedly

identified Stinson with, after the theft. Ms. Anderson only remembered the number four from the lineup, but she couldn't remember any other features of the lady that stole from her, very much like Ms. Ray.

Next the State called Ms. Eva Williams, who is seventy-nine years old to the stand. Ms. Williams says she only remembers a wig from the day she was scammed, but she does identify Stinson in court. After the three elderly women recalled a wig, a black lady, and number four on a photo-lineup, which they did not recall seeing, but only that number, there is a doubt, which a reason can be assigned to in this case.

Pearson states that even in light most favorable to the prosecution, a reasonable fact-finder must not be able to form one doubt that a reason could be assigned to, in order to find the defendant guilty. With all three fact witnesses not remembering the person who stole from them, there are multiple doubts which reason may be assigned to.

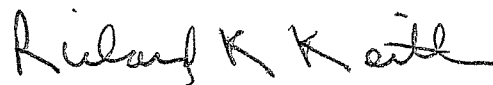
Because reasonable doubt is a legal standard applied to facts, the role of the appellate court is not to say what the facts are. [Their role] is to judge

whether the evidence is legally sufficient to allow submission of an issue for decision by the jury." All victim-witnesses could not remember more than a wig and similar features on the woman that robbed them, and they admitted so in court. With the trouble from the memory, the admitted lack of surety of the defendant, and the agreement that they remembered the number, rather than the picture in the lineup, there are multiple doubts, which reason may be assigned to many particular facts, and therefore this case did not fall within Pearson beyond reasonable doubt standard. The State failed to meet its burden of proof and Stinson's conviction is against the sufficiency of the evidence and testimony presented at trial. Thus, Appellant Stinson is due a reversal of her conviction and sentence and is due a trial *de novo*, free from prejudice, and as the interests of justice require.

CONCLUSION

The Appellant seeks to have her conviction and sentence reversed due to the trial court's failure to properly arraign or even give notice of arraignment to the appellant before trial began, against her rights, according to the Constitution of Alabama, along with the Alabama Rules of Criminal Procedure. The verdict against the Appellant was rendered without facts sufficient to the evidence to form a doubt which no reason could be assigned to, according to the record. The jurors heard testimony that was unsound, doubtful, and even contradictory, which led the jurors to ask the court for help in their verdict because they were not even sure of what they heard. Upon the court's denial, the guilty verdict was improperly levied against the Appellant and therefore the Appellant seeks to have her conviction and sentence reversed and remanded for a trial *de novo* as the interests of justice require.

RESPECTFULLY SUBMITTED, this the 15th day of March, 2006.



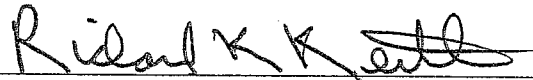
RICHARD K. KEITH (KEI003)
Attorney for Appellant

APPENDIX OF ADVERSE RULINGS

1. Defendant's Motion for Judgment of Acquittal by
Trial Court on January 1, 2006 (CR 28).

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Brief and Argument upon the Honorable Lane W. Mann, Clerk, Court of Criminal Appeals of Alabama, and the Alabama Office of Attorney General, Appeals Division, by placing copies of the same in the U.S. Mail, postage pre-paid and properly addressed, on this 15th day of March 2006.



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CR-05-0182

*In the COURT of CRIMINAL APPEALS
of ALABAMA*

◆

RENA DORSEY STINSON,

Appellant,

v.

STATE OF ALABAMA,

Appellee.

*On Appeal From the Circuit Court of
Montgomery County (CC-2004-1694)*

BRIEF OF APPELLEE

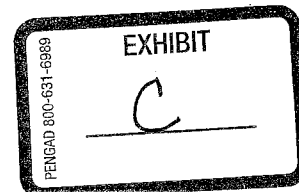
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April 12, 2006



STATEMENT REGARDING ORAL ARGUMENT

Oral argument in this case is not necessary because the record and briefs in this case adequately set forth the facts and law. Ala. R. App. Pro. 34.

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Section 13A-8-4(a) 18

STATEMENT OF THE CASE

This is an appeal from the conviction in the Circuit Court of Montgomery County, Alabama of two counts of first-degree theft of property and one count of second-degree theft of property (CC-2004-1694). Judge Truman Hobbs presided.

Rena Dorsey Stinson, the appellant in this case, was indicted by a Montgomery County Grand Jury on July 9, 2004, and charged with three counts of first-degree theft of property in violation of Section 13A-8-3 of the Code of Alabama (1975) and one count of second-degree theft of property in violation of Section 13A-8-4 of the Code of Alabama (1975). (C. 6-8) On December 20, 2004, Mr. Winston Durant was appointed to represent Stinson. (C. 1) On May 2, 2005 Ms. Cynthia L. May entered a notice of appearance on behalf of Stinson. (C. 1)

On August 22, 2005, the trial court granted the State's motion to nolle pros count three of the indictment - first-degree theft of property - and trial commenced on the remaining three counts. (R. 18) On August 23, 2005, the jury found Stinson guilty of two counts of first-degree theft of property and one count of second-degree theft of

property. (C. 14; R. 121) (C. 37; R. 498) On September 23, 2005, May filed a motion to withdraw as counsel because Stinson retained new legal representation. (C. 15)

On October 24, 2005, the trial court sentenced Stinson, who was represented by Mr. Thomas M. Goggans at sentencing, to twenty years' imprisonment on each count. (C. 2) The trial court ordered Stinson's sentences split to serve five years and that each sentence run concurrently. (C. 2) The trial court also ordered Stinson to pay \$22,060.16 in restitution and \$50 to the Crime Victim's Assessment Fund. (C. 2) Stinson provided oral notice of appeal. (Sent.¹ R. 9) On November 21, 2005, Stinson, through retained counsel Goggans, filed a motion for judgment of acquittal. (C. 28-29) The trial court denied Stinson's motion on January 9, 2006.

¹Sent. R. references the transcript for the sentencing hearing.

ISSUES PRESENTED FOR REVIEW

I. Was Stinson denied her due process right to arraignment?

II. Did the trial court properly deny Stinson's motion for judgment of acquittal?

STATEMENT OF THE FACTS

On April 9, 2003, around 1:30 p.m., seventy-five-year-old Carol Ray was placing items she had purchased from Wal-Mart inside the trunk of her vehicle. (R. 32) She took the shopping cart to a shopping cart rack and, when she returned to her vehicle, she noticed a "zipper bag right by [her] door." (R. 33) Immediately, a woman, later identified as Rena Dorsey Stinson, appeared at Ray's vehicle and picked up the bag. (R. 33) Stinson opened the bag and Ray saw that it "was full of money." (R. 33) The bag also contained a note stating something to the effect that "this is yours, the big boys got theirs." (R. 33)

Stinson asked Ray what they should do with the money. (R. 34) Ray suggested contacting the police, however, Stinson dismissed the idea and stated that the money was "drug money and they will just take it." (R. 34) Stinson suggested that they "talk about it" and got into Ray's vehicle. (R. 34) At this time, Stinson began speaking with a man on her cellular telephone. (R. 35) She also held Ray's hand. (R. 35) Stinson identified herself as a Wal-Mart employee and identified the man she was speaking

to as an attorney for Wal-Mart. (R. 35) Ray spoke momentarily to man. (R. 35)

He told Stinson that he was in a meeting inside Wal-Mart and continually spoke about the fact "he was on the New York stock exchange." (R. 35-36) He informed Stinson and Ray that he needed serial numbers "[o]ff of the money...to run it through some way." (R. 36) Stinson stated that she and Ray needed money and asked Ray to drive her to the bank. (R. 36) Ray dropped Stinson off at the bank and then drove next door to her own bank, Comala Credit Union. (R. 37) Ray withdrew \$9,500, leaving \$1,000 in her savings account. (R. 37) Ray returned to Stinson's bank where Stinson was waiting. (R. 37)

Ray and Stinson returned to Wal-Mart. (R. 37) Stinson stated that she would take the "money and let him get - - [that] they had a machine supposedly that he could get the [serial] numbers off the money." (R. 39) Ray followed Stinson inside Wal-Mart to the customer service area. (R. 39) Stinson informed Ray that she could not "go back there where he [wa]s in the meeting." (R. 39) Stinson then turned around and ran away with Ray's money. (R. 39) Ray

attempted to follow Stinson, but "lost her." (R. 39) Ray returned to the customer service area where an employee contacted store security and the police. (R. 40)

On April 28, 2003, seventy-two-year-old Emma Jean Anderson was approached by a black female when she was about to enter her vehicle parked in the Winn-Dixie parking area. (R. 52) The woman, later identified as Stinson, began talking to Anderson and opened a purse. (R. 53) As a result of their conversation, Anderson and Stinson drove to the nearby the mall where Anderson's bank was located. (R. 53-54) Anderson withdrew \$3,000 from her account. (R. 54) Per Stinson's instructions, Anderson drove them to the mall and then went inside the mall about ten minutes. (R. 54-55) Stinson remained inside Anderson's vehicle with Anderson's money. (R. 54-55) Realizing that she had been "robbed", Anderson returned to her car, but Stinson - along with Anderson's money -- was gone. (R. 55) Anderson went home and told her daughter about the incident. (R. 56) They subsequently reported the incident to the police. (R. 56)

On June 25, 2003, seventy-nine-year-old Eva Williams

was approached in the Sears parking area by a woman who identified herself as "Shirley." (R. 63-64) Williams was about to get into her vehicle when Shirley, later identified as Stinson, asked Williams if the wallet Stinson was holding was hers. (R. 64) Williams stated that it was not her wallet. (R. 64) Stinson stated she was unsure what to do with the wallet. (R. 64) Williams suggested taking the wallet inside Sears and let their office handle it. (R. 64-65) Stinson replied "I don't think I should do that." (R. 65) Williams then suggested that Stinson give the wallet to the security guard. (R. 65) Stinson responded that she was not "going to give it to the security guard" and then opened the wallet showing Williams "all this money." (R. 65) Stinson "kept saying she didn't know what to do." (R. 65) She began speaking to a man on speaker phone. (R. 65) Stinson identified herself and the man as office employees of Burlington Coat Factory ("Burlington"). (R. 65) The man told Stinson to bring the wallet to him at Burlington to determine what should be done and suggested that Williams drive her. (R. 66) Williams drove Stinson to Burlington and Stinson went

inside the store. (R. 66) She returned to Williams's vehicle shortly thereafter and stated that the man "wanted to know if [Williams] could give them some money so they could get the serial numbers." (R. 66) The man informed Stinson that the money was "drug money" and they convinced Williams to go to her bank, Max Credit Union, and withdraw \$1,500. (R. 67) After the withdrawal, Williams's account retained \$8. (R. 67)

Williams and Stinson returned to Burlington. (R. 68) Stinson went inside the store with Williams's money to "take the serial numbers off." (R. 68) Stinson returned to Williams's vehicle and informed her that she would bring Williams's money back outside briefly. (R. 68-69) Stinson returned inside the store. (R. 68-69) At this time, Williams realized that she had been "scammed" and contacted the police. (R. 69) Williams never saw Stinson exit the store from where she was parked. (R. 69) When the police arrived, they questioned store employees who confirmed that no person fitting Williams's description worked there. (R. 69)

On April 13, 2004, Ray, Anderson, and Williams

STANDARDS OF REVIEW

I. Constitutional claims of due process are waived when not timely presented to the trial court. See Watts v. State, 460 So. 2d 204, 206 (Ala. 1983). See generally Puckett v. State, 680 So. 2d 980, 983 (Ala. Crim. App. 1996).

II. This Court, in reviewing the trial court's denial of a motion for judgment of acquittal, must determine "whether there existed legal evidence before the jury, at the time the motions were made, from which the jury by fair inference could have found the defendant guilty beyond a reasonable doubt." Kabat v. State, 867 So. 2d 1153, 1160 (Ala. Crim. App. 2003). This Court must view the evidence in the light most favorable to the State. See Fitch v. State, 851 So. 2d 103, 120 (Ala. Crim. App. 2001).

SUMMARY OF THE ARGUMENT

Stinson has waived her claim that she was denied due process when the trial court failed to arraign her because this issue was not raised before the jury returned its verdict. Additionally, the State presented a prima facie case for two counts of first-degree theft of property and one count of second-degree property. Any inconsistencies or discrepancies by the victims in identifying Stinson as the perpetrator goes to the weight and credibility of their testimony and is a question of fact for the jury to determine.

ARGUMENT

I. Stinson Waived The Issue Of Whether She Was Denied Her Due Process Right To Arraignment Because She Failed To Object To The Lack Of Arraignment Before The Jury Returned Its Verdict.

Stinson contends that she was denied her right to due process when she failed to be arraigned. She argues that she "never received any notice of arraignment", that she did not waive her right to arraignment, and that she was never actually arraigned. (Stinson's brief, pg. 17.) Thus, Stinson avers that she was never informed of the charges and is entitled to "a[] trial de novo as a matter of law." (Stinson's brief, pg. 18.) Because Stinson effectively waived her right to arraignment, this issue does not warrant reversal on appeal.

A defendant's claim that she was denied her due process rights because she was not arraigned is waived when she failed to raise this issue before the jury returned its verdict. See Watts v. State, 460 So. 2d 204, 206 (Ala. 1983) (defendant waived claim that he was not arraigned on substitute indictment); Marsden v. State, 475 So. 2d 588, 588 (Ala. 1984) ("[E]ven though Marsden was not formally arraigned[,] he had waived arraignment by pronouncing his

After the trial court imposed Stinson's sentence, the following discussion occurred:

[Court]: Okay. Do you understand what this - - do you understand the sentence, Ms. Stinson?

[Stinson]: Could I say something, Judge.

[Court]: Sure.

[Stinson]: Judge, I stand before you and I have been before this Court before three times because I had a gambling problem, and I wrote checks. That's what I did. I actually wrote checks.

The first time I heard about this was when it was brought to my - - I never was here for an arrangement (sic). I never was here for a preliminary hearing. Honestly, Judge, when they came to see me while in Julia Tutwiler Prison, they said my facial expression favored the person who they was looking for.

God knows I did not do this, sir. I am sorry I favor the person who did it but I have never met any of those ladies. During 12/3 when this was going on, sir, I was working on a job. I had a contract with the state. I had never had a chance to even get on the stand to testify. My sympathy and heart goes out to these ladies. My attorney told me - -

[Court]: Ms. Stinson, I'm not going to retry the case.

[Stinson]: Okay. I am not asking you to retry the case. What I am trying to add, I never knew all of this until I sit in your courtroom and heard no one - - I never came before you to plead guilty or not guilty.

[Defense Counsel]: Ms. Stinson, that is something

we will take up at another motion another day.

[Court]: Brandon, did we ever arraign her?

[Mr. Hughes]: I have it down that she was arraigned on December 20th, 2004. Winston Durant was appointed.

[Stinson]: I was at Julia Tutwiler Prison. I never appeared from Julia Tutwiler for an arraignment (sic) or preliminary hearing or nothing, no, sir.

[Court]: Okay. Look, the jury found you guilty. That's all - - I am giving you - - the minimum sentence you can get is twenty years.

(Sent. R. 7-9)

Foremost, the record does not support Stinson's contention that an arraignment was not held. The case action summary sheet shows that she was arraigned on December 20, 2004. (C. 1) It further notes that Winston Durant was appointed trial counsel and that Stinson's presence was waived. (C. 1) Stinson's arraignment date is further noted on her pro se motion for a speedy trial and by the trial court when the issue was brought to his attention. (C. 11; Sent. R. 8-9) Thus, though clearly an arraignment hearing was held, it is not clear from the record whether Stinson waived her right to be present.

Assuming, though not conceding, that Stinson did not

waive her right, through counsel, to be present at arraignment, she has waived her claim that her due process rights were violated. During the two-day trial, Stinson did not bring to the trial court's attention that she had not been arraigned. Instead, she proceeded through jury selection, witness testimony, and jury instructions as though she had been arraigned and a formal plea of not guilty had been given.

Stinson admitted that she is not a novice to the Alabama court system. (Sent. R. 7) She has three prior felony convictions. (C. 2) Yet, Stinson waited until October 24, 2004, sixty-one days following the jury's verdict, to inform the trial court, after it had imposed a twenty-year sentence, that she had been denied this right. Thus, because Stinson never raised the issue before the jury returned its verdict, her formal waiver of arraignment is conclusively implied and reversal is not warranted.

II. The State Presented A Prima Facie Case Of First And Second Degree Theft Of Property And, Therefore, The Case Was Properly Submitted To The Jury For A Determination Of Guilt.

Stinson contends that the State failed to present a prima facie case of her convictions for two counts of first-degree theft of property and one count of second-degree theft of property. Stinson only appears to argue that the State failed to prove the identity of the assailant. This contention is without merit.

When determining the sufficiency of evidence, this Court must decide whether in "viewing the evidence in the light most favorable to the prosecution, a rational finder of fact could have found the defendant guilty beyond a reasonable doubt." Blount v. State, 876 So. 2d 509, 512 (Ala. Crim. App. 2003). See also Woods v. State, 724 So. 2d 40, 48 (Ala. Crim. App. 1997). This Court may not determine what the facts are, but must "judge whether the evidence is legally sufficient to allow submission of an issue for decision [by] the jury." Id. Moreover, "circumstantial evidence may form the proof of the corpus delicti; '[i]f facts are presented from which the jury may reasonably infer that the crime has been committed the

question must be submitted to the jury.'" Woods, 724 So. 2d at 48.

Section 13A-8-3(a) of the Code of Alabama (1975) provides that "[t]he theft of property which exceeds two thousand five hundred dollars (\$2,500) in value, or property of any value taken from the person of another, constitutes theft of property in the first degree." Section 13A-8-4(a) of the Code of Alabama (1975) provides that "[t]he theft of property which exceeds two hundred fifty dollars (\$250) in value but does not exceed one thousand dollars (\$1,000) in value, and which is not taken from the person of another, constitutes theft of property in the second degree." This Court has held that "[t]he testimony of the victim alone may be sufficient to establish a prima facie case." Brewer v. State, 497 So. 2d 567, 569 (Ala. Crim. App. 1986). See also Mayfield v. State, 641 So. 2d 1294, 1295 (Ala. Crim. App. 1994).

The record establishes that, on April 9, 2003, a woman identified both in court and in an out-of-court photographic lineup by Ray as Stinson, took \$9,500 from Ray. (R. 39) The record also shows that, on April 29,

2003, Stinson, identified by Anderson in an out-of-court photographic lineup, took \$3,000 from Anderson. (R. 55) The record further establishes that, on June 25, 2003, Stinson, whom Williams identified in court and in an out-of-court photographic lineup, took \$1,500 from Williams. (R. 68-69) In each instance, the victims did not give Stinson the money, but rather expected her to return the money. Thus, there is sufficient evidence to establish that Stinson committed two counts of first-degree theft of property and one count of second-degree theft of property. Because the State presented a prima facie case of both first and second degree theft of property, the trial court properly submitted the issue of guilt to the jury.

Moreover, the basis of Stinson's complaint, however, is not the sufficiency of the evidence, but rather the credibility and weight of the evidence. This Court has previously noted that

The *weight* of the evidence is clearly a different matter from the *sufficiency* of the evidence. The *sufficiency* of the evidence concerns the question of whether, viewing the evidence in the light most favorable to the prosecution, [a] rational fact finder could have found the defendant guilty beyond a reasonable doubt.

In contrast, the 'weight of the evidence'

refers to a determination [by] the trier of fact that a greater amount of credible evidence supports one side of an issue or cause than the other. "We have repeatedly held that it is not the province of this court to reweigh the evidence presented at trial." 'The credibility of witnesses and the weight or probative force of testimony is for the jury to judge and determine.' Conflicting evidence presents a jury question not subject to review on appeal, provided the state's evidence establishes a prima facie case.

Smith v. State, 745 So. 2d 922, 934 (Ala. Crim. App. 1999) (Emphasis in original). Therefore, Stinson's challenge of the strength of the victim's testimony regarding identifying her as the perpetrator "[goes] to the weight of the evidence and create[s] questions of fact to be resolved by the jury." Rowell v. State, 647 So. 2d 67, 69-70 (Ala. Crim. App. 1994). See also Johnson v. State, 453 So. 2d 1323, 1328 (Ala. Crim. App. 1984) ("The question of whether the victim's identification was positive or not goes to the weight and credibility of her testimony, and was a question for the jury."); Miller v. State, 602 So. 2d 488, 497 (Ala. Crim. App. 1992) ("Inconsistencies between the victim's description of the assailant and the defendant go to the credibility of the witness and present a question for the jury."); Fortier v. State, 515 So. 2d 101, 106 (Ala. Crim.

App. 1987). Consequently, because the issue of the identity of the assailant is a factual question for the jury to determine, Stinson is not entitled to any relief under this claim.

CONCLUSION

Based on the foregoing, this case should be affirmed on appeal.

Respectfully submitted,

Troy King
Attorney General

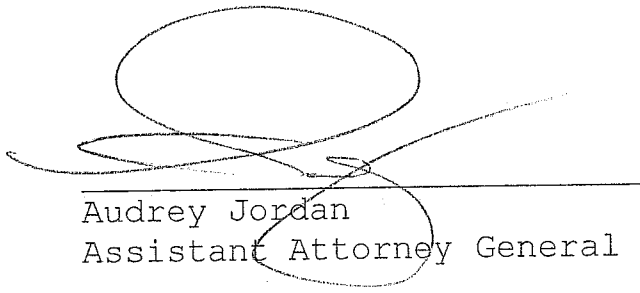


Audrey Jordan
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of April, 2006,
I did serve a copy of the foregoing on the attorney for
Stinson, by placing same in the United States Mail, first
class, postage prepaid and addressed as follows:

Richard K. Keith
Keith & Hamm, P.C.
22 Scott Street
Montgomery, Alabama 36104



Audrey Jordan
Assistant Attorney General

ADDRESS OF COUNSEL:
Office of the Attorney General
Criminal Appeals Division
11 South Union Street
Montgomery, Alabama 36130-0152
(334) 242-7300

118687/87141

REL 09/22/2006 STINSON

Notice: This unpublished memorandum should not be cited as precedent. See Rule 54, Ala.R.App.P. Rule 54(d), states, in part, that this memorandum "shall have no precedential value and shall not be cited in arguments or briefs and shall not be used by any court within this state, except for the purpose of establishing the application of the doctrine of law of the case, res judicata, collateral estoppel, double jeopardy, or procedural bar."

Court of Criminal Appeals
State of Alabama
Judicial Building, 300 Dexter Avenue
P. O. Box 301555
Montgomery, AL 36130-1555

H.W."BUCKY" McMILLAN
Presiding Judge
SUE BELL COBB
PAMELA W. BASCHAB
GREG SHAW
A. KELLI WISE
Judges

Lane W. Mann
Clerk
Gerri Robinson
Assistant Clerk
(334) 242-4590
Fax (334) 242-4689

MEMORANDUM

CR-05-0182

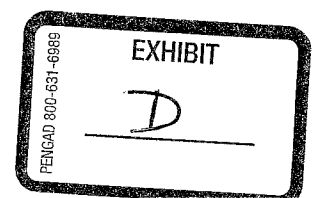
Montgomery Circuit Court CC-2004-1694

Rena Dorsey Stinson, alias v. State of Alabama

COBB, Judge.

Rena Dorsey Stinson was convicted following a jury trial of two counts of first-degree theft of property and one count of second-degree theft of property, violations of §§ 13A-8-3, -4, Ala. Code 1975. The trial court sentenced Stinson to concurrent 20-year terms of imprisonment on each count; the sentence was split and Stinson was ordered to serve 5 years in prison. The trial court also ordered Stinson to pay restitution and \$50 to the Crime Victims Compensation Fund. Thereafter, Stinson filed a motion for a judgment of acquittal, which the trial court denied. This appeal follows.

The testimony presented at trial, held on August 22-23,



2005, tended to show that Stinson was engaged in "flimflam" activities outside of local businesses and that she had convinced three elderly women to withdraw money from their bank accounts to give to her temporarily, and she then ran away with their money. Specifically, 75-year-old Carol Ray testified that on the afternoon of April 9, 2003, she returned to her vehicle after shopping in a Wal-Mart store and she saw a zippered bag on the ground near her vehicle. A woman she identified in court as Rena Stinson "just appeared" and she picked up the zippered bag, which was full of money. The bag also contained a note that stated something like, "The big boys got theirs. This is yours." (R. 33.) Stinson told Ray that she worked for Wal-Mart. She asked Ray what they should do with the money and Ray suggested calling the police. Stinson told her that it was drug money and the police would take it. She got into Ray's car and suggested that they talk about what to do with the money. Stinson held Ray's hand and called a man on her cell phone. Stinson said the man was a lawyer for Wal-Mart. Ray spoke to the man on Stinson's cell phone, and he said he was inside the store in a meeting. Ray testified that the man and Stinson kept calling back and forth and he said he needed some serial numbers from other bills to "run it through some way," so Ray and Stinson were to go to their banks to get some money. Ray dropped Stinson off at a bank located next to her credit union, and Ray withdrew \$9500 from her savings account, leaving a balance of \$1000 in the account. Stinson gave her a bank bag to hold, as if she had also taken money out of her bank account.

Ray then drove them back to Wal-Mart. Stinson got out of Ray's car and told her that she was going to take Ray's money into the store to get the serial numbers in some sort of machine and then would return the money to Ray. Ray followed her into the store. Ray testified that the store's video camera had photographed the pair walking in together. Stinson walked to the customer service department and Ray followed. Stinson told Ray that she could not into the room where the "Wal-Mart attorney" was in the meeting. Stinson then turned around and ran out of the store, taking Ray's \$9500 with her. Ray attempted to follow her, but could not find her. Store personnel contacted the police. Ray identified Stinson in a photographic lineup approximately one year after the incident. Ray said that she was certain of her identification when she made it.

Seventy-two-year-old Emma Jean Anderson testified that April 28, 2003, as she prepared to enter her vehicle in the parking lot of a grocery store, she was approached by a black woman she identified later in a photographic lineup as Stinson. Stinson talked to her, but Anderson could not remember exactly what she said. After the conversation, Anderson drove to her bank and withdrew \$3000. Stinson then told her to drive to the mall and go inside. Stinson told Anderson that she would wait in Anderson's car until she returned from the store, but when Anderson returned, Stinson had taken Anderson's money and fled.

Seventy-nine-year-old Eva Williams testified that she was approached in a parking lot of a department store by a woman who identified herself as "Shirley." Williams later identified Stinson from a photographic lineup as the woman who had approached her. Stinson had a wallet in her hand and asked Williams if it belonged to her. Williams said that it did not and Stinson said she did not know what to do with it. Williams told her to take it to the department store office, but Stinson did not want to do that. She opened the wallet and showed Williams what appeared to be a lot of money.

Stinson kept telling Williams she did not know what to do with the money, and she talked on her cell phone with a man she said was the office manager at another store, Burlington Coat Factory; Stinson said she worked in the office of the store, too. He told Stinson to bring the wallet to his store; he also told Stinson that he knew her vehicle was not working and suggested that she ask Anderson to drive her. Anderson drove to the store and Stinson went inside. She told Anderson that the man wanted to know if Anderson could give them some money so they could get the serial numbers off of it. He said the wallet contained drug money. Anderson stated that they talked her in to going to her credit union and withdrawing all the money she had -- \$1500, leaving a balance of \$8.

Anderson then drove her vehicle, with Stinson riding along, to the Burlington store and Stinson went into the store with Anderson's money. Anderson thought that the man was going to take the serial numbers off of the bills and return them to her. Stinson returned to the vehicle with bags that she said contained \$10,000. She was going to give one to

Anderson, she said, but they were not to spend the money right away. Stinson returned to the store, telling Anderson that she was going to get her \$1500, but Anderson never saw her again. Anderson contacted the police, and she later identified Stinson from a photographic lineup.

Detective Jason Roberts testified that he was the case agent on the cases involving the scams of Ray, Williams, and Anderson. He studied the still photographs of the woman who took the victims' money that were provided by the banking institutions and compared them to photographs in the Montgomery Police Department database of individuals who had been arrested. Stinson became a suspect in the cases and Det. Roberts placed her photograph in a lineup. After the victims identified Stinson as the woman who stole their money, he took Stinson into custody and questioned her. Stinson denied the allegations, but admitted she had a gambling problem.

After the State rested its case, Stinson made a motion for a directed verdict, which the trial court denied. The defense rested its case without presenting any evidence. The jury found Stinson guilty of all charges.

On October 24, 2005, the trial court held a sentencing hearing. Stinson had 3 prior felony convictions and the court ordered her to serve a 20-year term of imprisonment, split to serve 5 years and to serve 5 years of probation. The court also ordered her to pay court costs, a \$50 crime victims compensation assessment, and restitution in an amount to be determined later. This appeal follows.

I.

Stinson first argues that she is entitled to a new trial because she was never arraigned on the charges. The State argues that Stinson waived this claim by failing to timely raise it. We agree.

Stinson first raised this issue at her sentencing hearing, approximately 2 months after she was tried and convicted. The untimely objection waived the issue for purposes of appellate review. E.g., Soriano v. State, 527 So. 2d 1367, 1372 (Ala. Crim. App. 1988).

Moreover, it appears from the record that Stinson was arraigned. When she made the objection at her sentencing hearing, the trial court asked the prosecutor if she had been arraigned; the prosecutor stated that his notes indicated that she was arraigned on December 20, 2004, and that an attorney was appointed for her at that time. The clerk's record reflects that on December 20, 2004, a proceeding abbreviated as "ARRG" was scheduled. The notations in the record on December 20, 2004, indicate that the defendant's presence was waived and that an attorney was appointed. December 20, 2004, was also noted as the arraignment date on Stinson's pro se motion for a speedy trial. (C. 11.) Thus, the record indicates that Stinson was arraigned and that her newly-appointed attorney waived her presence. Thus, even if Stinson had made a timely objection, and she did not, she would not be entitled to any relief on this claim.

II.

Stinson argues that the evidence presented at trial was not sufficient to support the convictions. She preserved a claim regarding the sufficiency of the evidence by making a motion for a directed verdict at the end of the State's case. The trial court denied the motion for a directed verdict. We find no error in the trial court's ruling.

"Appellate courts are limited in reviewing a trial court's denial of a motion for judgment of acquittal grounded on insufficiency." McFarland v. State, 581 So. 2d 1249, 1253 (Ala.Crim.App. 1991). "The standard of review in determining sufficiency of evidence is whether evidence existed at the time [the defendant's] motion for acquittal was made, from which the jury could by fair inference find the [defendant] guilty." Linzy v. State, 455 So. 2d 260, 26 (Ala.Crim.App. 1984) (citing Stewart v. State, 350 So. 2d 764 (Ala.Crim.App. 1977), and Hayes v. State, 395 So. 2d 127 (Ala.Crim.App.), writ denied, 395 So. 2d 150 (Ala. 1981)). In determining the sufficiency of the evidence, we view the evidence in the light

most favorable to the State. Linzy,
supra."

"Ex parte Burton, 783 So. 2d 887, 890-91 (Ala. 2000).

"'The role of appellate courts is not to say what the facts are. Our role ... is to judge whether the evidence is legally sufficient to allow submission of an issue for decision to the jury.' Ex parte Bankston, 358 So. 2d 1040, 1042 (Ala. 1978)."

Ex parte Williford, [Ms. 1031319, Sept. 16, 2005] ____ So. 2d ____, ____ (Ala. 2005)

Stinson argues that none of the State's witnesses were able to adequately identify her as the thief. She claims, "With all three fact witnesses not remembering the person who stole from them, there are multiple doubts which reason must be assigned to." (Stinson's brief at p. 20.) The facts are otherwise.

Viewing the evidence in the light most favorable to the State, we find that the trial court correctly denied the motion for a directed verdict. The testimony presented by the State established that all of the victims identified Stinson in a photographic lineup as the person who stole from them. Furthermore, two of the witnesses identified Stinson in court. (R. 34, 74-75.) Stinson was in the presence of each victim for an extended period of time as she gained each woman's trust and as she appeared to make a plan with the man to whom she had spoken on her cell phone regarding the "found money." Stinson rode in each victim's vehicle as she went to her financial institution to withdraw money. Therefore, the victims had more than a fleeting chance to observe Stinson. Each victim was able to identify Stinson's photograph in a police lineup, although one victim honestly admitted at trial that she could not identify her in court.

That Stinson cross-examined the witnesses about their difficulty in recalling details about her did not somehow eliminate their earlier identifications of her as the thief. Stinson raises questions about the credibility of the victims'

identification of her, and questions of credibility were for the jury to resolve.

Viewing the evidence in the light most favorable to the prosecution, we find that the evidence was legally sufficient to allow submission of the case to the jury. Thus, the trial court correctly denied the motion for a directed verdict, and Stinson is not entitled to any relief on this claim.

The judgment of the Circuit Court of Montgomery County is due to be affirmed.

AFFIRMED.

McMillan, P.J., and Shaw, and Wise, JJ., concur.
Baschab, J., concurs in the result.

COURT OF CRIMINAL APPEALS
STATE OF ALABAMA

H. W. "BUCKY" McMILLAN
Presiding Judge
SUE BELL COBB
PAMELA W. BASCHAB
GREG SHAW
A. KELLI WISE
Judges



Lane W. Mann
Clerk
Gerri Robinson
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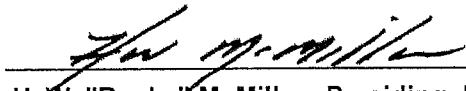
CR-05-0182

Rena Dorsey Stinson, alias v. State of Alabama (Appeal from Montgomery Circuit Court: CC04-1694)

ORDER

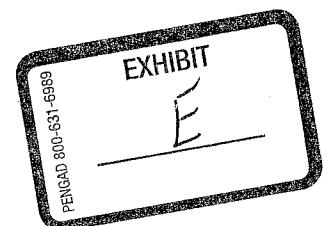
Attorney Richard K. Keith's motion to withdraw as counsel for the appellant is GRANTED.

Done this the 2nd day of October, 2006.



H. W. "Bucky" McMillan, Presiding Judge
Court of Criminal Appeals

cc: Richard K. Keith, Attorney
Rena D. Stinson, Pro Se
Hon. Audrey Jordan, Asst. Attorney General ✓



**COURT OF CRIMINAL APPEALS
STATE OF ALABAMA**

Lane W. Mann
Clerk
Gerri Robinson
Assistant Clerk



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November 3, 2006

CR-05-0182

Rena Dorsey Stinson, alias v. State of Alabama (Appeal from Montgomery Circuit Court: CC04-1694)

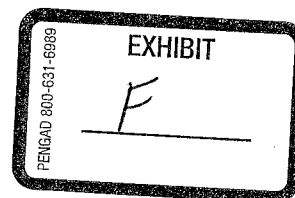
NOTICE

You are hereby notified that on November 3, 2006 the following action was taken in the above referenced cause by the Court of Criminal Appeals:

Application for Rehearing Overruled.

Lane W. Mann, Clerk
Court of Criminal Appeals

cc: Hon. Melissa Rittenour, Circuit Clerk
Rena D. Stinson, Pro Se
Hon. Audrey Jordan, Asst. Attorney General



THE STATE OF ALABAMA - - JUDICIAL DEPARTMENT
THE ALABAMA COURT OF CRIMINAL APPEALS

CR-05-0182

Rena Dorsey Stinson, alias v. State of Alabama (Appeal from Montgomery Circuit Court: CC04-1694)

CERTIFICATE OF JUDGMENT

WHEREAS, the appeal in the above referenced cause has been duly submitted and considered by the Court of Criminal Appeals; and

WHEREAS, the judgment indicated below was entered in this cause on September 22nd 2006:

Affirmed by Memorandum.

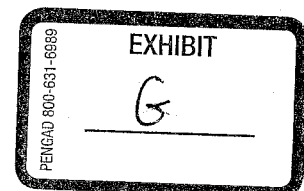
NOW, THEREFORE, pursuant to Rule 41 of the Alabama Rules of Appellate Procedure, it is hereby certified that the aforesaid judgment is final.

Witness. Lane W. Mann, Clerk
Court of Criminal Appeals, on this
the 21st day of November, 2006.



Clerk
Court of Criminal Appeals
State of Alabama

cc: Hon. Truman Hobbs, Circuit Judge
Hon. Melissa Rittenour, Circuit Clerk
Rena D. Stinson, Pro Se
Hon. Audrey Jordan, Asst. Attorney General





IN THE SUPREME COURT OF ALABAMA

8/11/41
Jordan

December 1, 2006

1060338

Ex parte Rena Dorsey Stinson. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Rena Dorsey Stinson, alias v. State of Alabama) (Montgomery Circuit Court: CC04-1694; Criminal Appeals : CR-05-0182).

ORDER

IT IS ORDERED that the petition for writ of certiorari filed on November 27, 2006, is dismissed pursuant to Rule 2(c), Alabama Rules of Appellate Procedure, as untimely filed.

I Robert G. Esdale, Sr., as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 1st day of December 2006

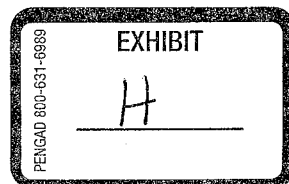
Robert G. Esdale, Sr.
Clerk, Supreme Court of Alabama

cc:

Rena Dorsey Stinson, Pro Se

Hon. Troy R. King, Attorney General

Hon. Audrey Jordan, Asst. Attorney General



/ag



IN THE SUPREME COURT OF ALABAMA

Jordan
87141

December 11, 2006

1060338

Ex parte Rena Dorsey Stinson. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Rena Dorsey Stinson, alias v. State of Alabama) (Montgomery Circuit Court: CC04-1694; Criminal Appeals : CR-05-0182).

ORDER

The petition for writ of certiorari having been dismissed on December 1, 2006, as untimely filed,

IT IS ORDERED that the petitioner's motion to reinstate the petition for writ of certiorari is denied. See Rules 2 and 26, Alabama Rules of Appellate Procedure.

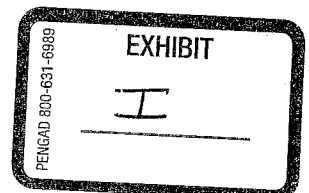
I Robert G. Esdale, Sr., as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 11th day of December 2006

Robert G. Esdale, Sr.
Clerk, Supreme Court of Alabama

cc:

Rena Dorsey Stinson, Pro Se
Hon. Troy R. King, Attorney General
Hon. Audrey Jordan, Asst. Attorney General



MIDDLE DISTRICT
NORTHERN DIVISION
FEDERAL DISTRICT COURT

RECEIVED

RENA D. STINSON
Petitioner

2007 MAR 14 A 9:21

2:07cv225-WHA

v.

Case Number: 2004-1694
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

STATE OF ALABAMA
Respondent

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Rena D. Stinson, Pro Se, comes before this court filing a Petition for Writ of Habeas Corpus.

Petitioner during this cause has been denied United States Constitutional Rights, State of Alabama Constitutional Rights of 1901, as well as Federal and Statutory Laws.

Petitioner comes before this court and petition this court to grant a Writ of Habeas Corpus and states:

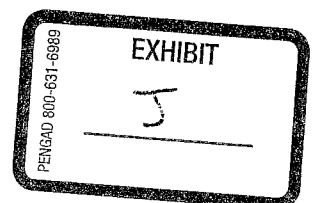
Petitioner has filed an appeal that was affirm.

Petitioner has filed an application of rehearing that was overruled.

Petitioner Writ of Certiorari was dismissed due to untimely being filed.

Petitioner presently went Pro Se after obtaining legal representation of three paid counsel that were all ineffective assistace of counselors as the enclosed documentation will confirm.

Petitioner has enclosed a variety of information and letters, statements, etc to support the Petition for Habeas Corpus as follows:



1. Petitioner is a citizen of the State of Alabama, currently assigned to Birmingham Community Workcenter, in Birmingham Alabama, Department of Corrections.
2. Petitioner filed an appeal with the Alabama Court of Criminal Appeal, raising the following issues.
 - a. Petitioner was denied an arraignment.
 - b. Sufficiency of Evidence
3. Petitioner attorney Richard Keith filed these grounds on his own without Petitioner being in agreement because Petitioner after discovering that he was not going to include ineffective assistance of counselors as the trial attorney was ineffective in many areas as Writ will show.
4. Petitioner never had an opportunity to enter a plea.
5. Petitioner was not never notified of any court appearance by the circuit court, the arraignment, any hearings, or the trial itself.
6. Petitioner was not arraigned as required by the Alabama State Constitution and the U.S. Constitution.
7. Petitioner was not allowed a preliminary hearing as required.
8. Petitioner was not allowed by trial attorney to have witnesses.
9. Petitioner was not allowed to testify even thou Petitioner wanted to and beg to testify.
10. Petitioner was not allowed to give an alibi.
11. Petitioner was notified of the trial less than 24 hours.
12. Petitioner trial attorney did not do any investigations. *Exhibit D*
13. Petitioner trial attorney did not hold a suppression hearing or evidence hearing.
14. Petitioner trial attorney did not file appropriate motions.
15. Petitioner's trial attorney did not object appropriately. *Exhibit A, H.*
16. Petitioner's trial attorney was not prepared for trial. *Exhibit 2*
17. Petitioner's trial attorney did not file motions to obtain discovery and all evidence the DA and Police Deparment had. *Exhibit I*
18. Petitioner's trial attorney allowed hearsay to be admitted during the trial. *Exhibit B, H*

19. Petitioner's trial attorney did not allow Petitioner to have witnesses on Petitioner behalf as Petitioner wanted witnesses.

20. Petitioner's trial attorney as enclosed letters will show was contacted by Petitioner in order to obtain information about the charges, dates, times, places, etc., and her responses were she will notify Petitioner of her findings as soon as she completed her review. Petitioner was never notified of the findings. (letters enclosed Exhibit A, B, and C).

21. Petitioner's trial attorney was informed of the still shot photo that Detective Roberts had shown Petitioner during the interrogation. The trial attorney did not obtain them as evidence and they never made it to court. Petitioner informed the detective that the person who he was pointing to as Petitioner was not Petitioner, if he would look at the picture he could see it was not Petitioner. The still shot photo was of two black females and a white elderly lady. This information was passed to all three paid attorneys. The picture would have vindicated Petitioner.

22. Petitioner's trial attorney did not object appropriately to leading questions or have evidence presented to the court when she had the opportunity too. One of the victims Ms. Carol Ray, mentioned the still shot phot, during the DA questioning her. Petitioner trial attorney, the prosecutor, or the court had them produced to the jury as evidence. Ms. Ray stated this twice during her questioning. The Da ignored it everytime.

23. Petitioner's trial attorney was fired immediately after the conviction. The Petitioner was forced to sit through a trial afraid to say anything with threats of being charged with contempt. Exhibit 3 Petitioner wrote notes but they were ignored by trial attorney.

Petitioner trial attorney was not prepared as enclosed Motion to Continue states. She was informed of the trial by a return telephone call from the prosecutor. According to her letter, she had not been notified of a schedule trial date until the prosecutor returned her call and it was rescheduled. This date or any date was given to the Petitioner. Petitioner was notified of the trial less than 24 hours, no preparation.

Trial counselor was ineffective in objecting to leading statement made by the prosecutor as he pointed to the photo line-up during Ms. Ray questioning.

Trial counselor was ineffective in objecting and having the still shot photo presented to the court when the victim mentioned them during her questioning.

Trial counselor was ineffective in asking detective Roberts questions relating to the still shot photo, videos tapes, and DNA relating to the crimes.

Trial counselor was ineffective in not being prepared for trial as her motion to continue states dated August 10, 2005. Exhibit 2

Trial counselor was ineffective in not allowing Petitioner to testify, have witnesses and give an alibi even thou Petitioner begged counselor to let her testify.

Trial counselor was ineffective in not having an evidence hearing, suppression hearing, submitting motions to obtain evidence, discovery, witness statements, investigating, etc.

Trial counsel was ineffective as she did not prepare Petitioner for trial. Petitioner was notified less than 24 hours of the trial.

Prosecutor before the trial pointed the Petitioner out to one of the victims, and later put Ms. Ray on the stand and asked the victim did she see the lady in court today and what was she wearing.

Prosecutor did not allow Ms. May to review the tapes as her letters confirmed he had surveillance tapes of the crimes that never made it to court. It was the duty of the prosecutor to turn over all favorable evidence.

Trial counselor had an obligation to investigate and prepare the case for court. To discharge her duty faithfully. To ensure that Petitioner was aware of all charges and confront witnesses. Trial counselor did not. Exhibit A, b.

24. Petitioner was represent at trial by Attorney Cynthianter May. Sentencing/first appeal attorney Thomas Goggans. Final appeal attorney Richard Keith. Prosecutor Brandon Hughes. Court appointed attorney Winston Durant.

25. Petitioner sentencing attorney failed to let Petitioner review presentence report before sentencing; did not file a motion for new trial; did not do any investigation as requested by Petitioner; He allowed Petitioner initial appeal to be dismissed because he failed to pay the docket fees and prepare the forms to the court of criminal appeal; He waited 87 days to submit the motion for acquittal, when he was fired; He failed to keep Petitioner abreast of the status of the appeal and appeal bond, etc. Exhibit F

26. Petitioner's appeal attorney Richard Keith, failed to include in the appeal all of the many ways the trial attorney was ineffective, even when he was asked by Petitioner to include them. He stated afterward he was saving them to file a Rule 32, which would require an additional fee. Attorney Keith filed a fraudulent motion to the court without Petitioner permission, and did not informed Petitioner of his actions. Petitioner's husband paid Attorney Keith his asking fee of \$4,000 to file the appeal. The fee included the cost for the transcript, docket fees, and his personal service fees on November 21, 2005. On January 23, 2006 he submitted a Motion to Proceed Informa Pauperis on Appeal. It was approved by Judge Hobbs on January 24, 2006. He intentionally left out valid grounds in the appeal that would have resulted in a different outcome. He promised to conduct investigation, but later quoted after he was paid it would be an additional \$500 an hour, for him to do investigation.

A complete detail of how this case has went is enclosed as I have written 60 minutes, America Most Wanted and Date Line Television soliciting their help as I am not guilty of these crimes. Enclosed is a copy of the letter that was to each of them.

27. The conviction and sentence under which Petitioner is serving time are unlawful, unconstitutional, and void because of the violation of Petitioner's forth, fifth, sixth and fourteenth amendment right to due process.

28. Petitioner filed a motion for retrial and it was denied.

29. Petitioner's Trial attorney 's representation fell below an objective standard of reasonableness if it had not been for counsel's unprofessional errors the result of the proceeding would have been different. Trial attorney did not put on any defense on Petitioner behalf.

30. Trial attorney has a duty to conduct both factual and legal investigation on behalf of his client and that the failure to conduct such an investigation and present the evidence that would have been disclosed amounts to ineffective representation by counsel as stated in several cases such as:

Coles v. Peyton 389; McQueen v. Swenson, 498 F. 2d 20;
US V. Decoster, 487 F. 2d.

Trial attorney has a duty to make reasonably investigation to conduct adequate pretrial discovery as stated in "kimmelman v. Morrison (1986, US) 91 L Ed 2d 305, 106 S Ct 2574, Infra

10.

Supreme Court found that defense counsel's representation was constitutionally deficient in that he failed to timely move for suppression of certain evidence, which was ultimately due to his failure to conduct adequate pretrial discovery.

According to two enclosed letters from Attorney May the prosecutor had surviellance tapes and she did not get to reveiw before the trial and she had a duty to ensure that the all favorable evidence be presented to the court, as Petitioner husband had requested to review the tapes with Attorney May.

An attorney is expected to take professional responsibility for the conduct of a case after consulting with his client, the Supreme Court held, except for certain decisions which must be made by his client; the plea to be entered, to waive jury trial, whether the client will testify.

31. Due Process of law requires fair notices that one's conduct is subject to a law or regulation as stated in Brooks v. Alabama State Bar, 574 So. 2d 33

IT IS THE RIGHT OF THE IMPERATIVE DUTY OF THE COURTS TO SEE THAT THE RIGHTS OF AN ACCUSED ARE NOT TAKEN AWAY FROM HIM. Bradley v. State, 215 Ala. 140, 110 So. 162 (1926)

FROST V. STATE, 225 Ala 232, 142 S. 427 (1932)
A prisoner accused of felony, must be arraigned in person and must plead in person; and in all subsequent proceedings, it is required that he shall appear in person.

Trial Courts can be trusted to see that every man brought before them, charged with crime, shall have that full measure of protection guaranteed to him by Amend 6 of the Constitution Gilchrist v. State, 234 Ala 73, 173 So. 651 (1937).
Wray v. State, 154 Ala. 36 45 So. 697 (1908)

Rule 4.4 Initial Appearance

(b) Felonies charged by complaint when a defendant's charged by complaint with commission of a felony, the Judge or magistrate in addition to the procedures required by section (a) shall:

(1) inform the defendant of the right to demand a preliminary hearing and the procedure by which that right may be exercised and (2) If so demanded, set tthe time for a preliminary hearing in accordance with Rule 5.1 of Alabama Rules of Court 2006.

Herbert v. Louisiana, 272 US 312, states the duty of the state court to protect constitutional rights and and they are under obligation to guard and enforce every right secured by the Federal Constitution.

The Constitution of Alabama 1901, Section 6. Fair Trial Procedures states "That in all criminal prosecutions, the accused has a right to be heard by himself and counsel, or either, to demand the nature and cause of the accusation; and to have a copy thereof, to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to testify in all cases, in his own behalf, if he elects so to do; and, in all prosecutions by indictment, a speedy, public trial, by an impartial Jury of the county or district in which the offense was committed; and he shall not be compelled to give evidence against himself, nor be deprived of life, liberty or property, except by due process of law.."

Petitioner was denied Petitioner rights to a Fair Trial in accordance to Alabama State Constitution of 1901, US Constitution, Federal and Statutory Laws due to the acts of the court appointed attorney, trial attorney, sentencing/ appeal attorney and final appeal attorney, the court, prosecutor and the detective who handle the case.

Petitioner fourth, fifth, sixth fourteenth, etc., was violated

Prosecutor has a constitutional duty to volunteer matter to the defense if the evidence would create a reasonable doubt as to the guilt of the accused., Jones v. Shankland, 800 F 2d 77, 80 (6th Cir 1986)

Giglio v. United States (1972) 405, US 150 3L LFD 2d 104, 92 87 2d pg 802.. Prosecutor's duty under due process clause of the fifth amendment to disclose evidence to the accuse.

People v. Nikollaj, 155 Misc. 2d 642, 589 N.Y. S 2d 1013 (sup Ct. Queens County 1997) Prosecution's withholding of Rosario material prejudiced defendant's case and a reasonable probability existed that the violation contributed to the verdict.

Alabama Cr AP 1981 Photographs in nature of Mug shots should not have been admitted in face of proper objection where they indicated that defendant had a criminal record. Attorney May did object but her objection* as overruled.

The Prosecutor submitted to the court photographic line-up from which eye witnesses initially identified the defendant was impermissibly suggestive the burden was on the prosecution to show that the in-court identification had an independent basis of reliability. The prosecution did not meet this burden where the evidence regarding reliability of eye-witness's identification was conflicting. Where based on all facts and circumstances involved, the suggestiveness of the photographic line-up coupled as it was, with evidence indicating a lack of reliability, there was a very substantial likelihood of irreparable misidentification; in-court identification of the defendant should have been suppressed.

Error in law if the court rule that evidence is admissible when it should have been ruled inadmissible.

All evidence the Prosecutor had was not provided to the defendant such as the still shot photos, video tapes of the crimes with the actual persons, DNA Detective Roberts stated he had, original complaints filed by the victims, etc.,

Upon Prosecutor's witness mentioning the still shot photo (enclosed) Prosecutor ignored her comment.

Dickerson V. Foss 692 F. 2D Accuracy of the witness prior description of the criminal the length of time between th crime and the confrontation. No confrontation was made available to Petitioner.

**POINTS AND AUTHORITIES IN SUPPORT OF
PETITION FOR WRIT**

Rena D. Stinson, Pro Se, the Petitioner in this case was indicted by a Montgomery County Grand Jury on July 9, and charged with three counts of first-degree theft of property in violation of Section 13A-8-3 of the Code of Alabama (1975) and one count of second-degree theft of property in violation of Section 13A-8-4 of the Code of Alabama (1975) on December 20, 2004, an arraignment was held. Petitioner was not notified. The court appointed Attorney Winston Durant represent Petitioner. Attorney Durant upon his appointment waived Petitioner presence to the arraignment on that same date. The court nor Attorney Durant notified the Petitioner of this action. Petitioner was not contacted to sign a waiver, etc., The result of this was Petitioner was not arraigned, entered a plea or had an opportunity to a Preliminary hearing.

On April 26, 2005, a court date was set for the Petitioner. The Petitioner was picked up suddenly from Julia T. Prison where Petitioner was serving a 10 split 18 months sentence for writing checks due to a past gambling addiction on Petitioner on personal and business accounts. She was informed by the deputy she had a court date before the Judge. Petitioner never made it to that court date because Petitioner blanked out while at the county jail and hurt her shoulder, sprung her shoulder, dislocated her teeth, broke a tooth, and hurt her head. Petitioner was rushed back to Julia because the county refused to treat her or take her to the Emergency Room. Upon arriving back at Julia she was taken to the Montgomery, Baptist Hospital and treated. Petitioner husband at this point contacted Attorney Cynthianther May to represent Petitioner and to obtain information about what was Petitioner being charged with.

On May 2, 2005, Ms. Cynthianther L. May. entered a notice of appearance on behalf of Stinson.

on August 15, 2005, according to information contain on

Ms. May Motion to Continue that she submitted on August 10, 2005, there was another court date set for a trial on August 15, 2005, whereas Ms. May found out from a returned telephone to the Prosecutor Brandon Hughes; She had called him I am assuming in regards to reviewing the tapes he had regarding the crimes, since her enclosed letters mentioned Ms. May was waiting on the Prosecutor to get back with her, for a time for her to review them and Petitioner husband had requested to be present at the viewing.

August 18, 2005, Petitioner was suddenly picked up by the county to appear in court. Petitioner upon arrival contacted Petitioner husband to contacted Attorney May to find out what was the purpose of the court hearing. Ms. May came to the Montgomery County Jail, on Sunday, August 21, around 4:30, to informed Petitioner that she was having a trial the next day. Attorney May left word for the county to allow Petitioner to dress for court. Petitioner asked many questions but received few answers. Petitioner was informed not to worry, Ms. May had everything under control. Petitioner asked had she obtained the still shot phot that the detective had shown Petitioner during the interrogation, and Petitioner had informed the detective that the person he was pointed to if he would look at it, now that he had met me he could see it was not me. She said "no" it will more than likely be in court. But it was not!"

Petitioner had wrote Ms. May two letters after her initial visit on May 12, 2005, at Julia Prison concerning the charges, time, dates, places, etc. I had informed Ms. May of the interrogation Petitioner had and the communication that was exchanged, whereas I was threaten, cused even after telling the detective he had the wrong person and the picture was clear enough to see that of the offenders at the crime scene. As the detective stated the crime invloved two black females and one black male. They wanted information that I did not know about or could give them. A couple of days later, Petitioner name appeared in the newspaper, on TV and on the radio being accused of the crimes of film flaming elderly ladies out of their money. *Exhibit A, B,*

Ms. May never got back with Petitioner after her initial visit at Julia Prison, regarding the charges, etc. Ms. May letters will confirmed as of August she had not finished her review of the files or done any investigation, file appropriate motions, got with Petitioner about the charges, prepared Petitioner for court by allowing Petitioner to give an alibi, have witnesse, evidence hearing, etc. *Exhibit A, B*

On August 22, 2005, the trial court granted the State's motion to nolle pros count three of the indictment.

On August 23, 2005, the jury found Petitioner guilty of the charges. Ms. May did not put up any defense. The jury wanted information about the still shot photo. Victim Carol Ray mentioned the still shot photo during her questioning. Petitioner attorney, the court or the prosecutor did not have the photo presented to the jury upon her mentioning the picture. The Prosecutor ignored her statement. The Jury wanted original descriptions that was given by the victims when the crimes took place. The Jury wanted more information about hearsay that was allowed regarding the detective statement" A fellow officer was at the county jail and saw Petitioner and called Petitioner name into him". Petitioner attorney did not object or asked any questions relating to this hearsay statement. The Jury was denied all their requests from the court, prosecutor, and Petitioner attorney.

Petitioner was sentenced to a 20 split 5 years and five

On August 24, 2005, Petitioner fired Ms. May immediately after the conviction.

On August 31, 2005, Petitioner obtained the service of of Attorney Thomas Goggans. He was hired to do an appeal, to attend sentencing hearing and file motions for a retrial, an acquattal, to obtain an appeal bond, to submit an appeal, etc. Attorney Goggans was also informed of the evidence at the police station. He did not do any investigation as he had agreed upon accepting the case or file a motion for retrial.

On October 24, 2005, a sentencing was set. Petitioner was not allowed to review the presentence report before the sentencing, as the Prosecutor was making changes to it during

the court hearing. Judge Hobbs asked Attorney Goggans did he want a formal hearing he quickly stated "no" without consulting Petitioner. Upon reading Alabama Rule of Court 2005, this would have been an opportunity to have the tapes, photo presented to the court and identify all the ways the trial attorney was ineffective; as well as Petitioner was denied her right to Due Process of law could have been investigated as Mr. Goggans had been informed about Petitioner was not allowed to testify, have witnesses, give an alibi, never entered a plea, etc.

During the sentencing was Petitioner first opportunity to speak to the court. During the entire trial Petitioner was not asked any questions by the court, the prosecutor, or her attorney. Petitioner had been informed to not say a word unless asked during the trial. Petitioner had wrote the court called the court and was unsuccessful. Petitioner informed the judge during the sentencing that she had not been arraigned, entered a plea, had a preliminary hearing, could not testify, was not allowed to have witnesses, etc.

Judge Hobbs asked the prosecutor had Petitioner been arraigned, he stated yes on December 20, 2004. The case action summary sheet also showed Petitioner presence was waive and only an attorney was appointed. He did not reveal that information to the Judge.

Petitioner was not given an opportunity to review the presentence report before the hearing. Attorney Goggans stated all during the sentencing he would file motions, we will deal with that a a later date, etc. He failed to file the motion relating to Petitioner Due Process, Constitutional violations both U.S. and Alabama. (enclosed documentation give details of his errors.) Exhibit E.

Petitioner was sentenced to 20 split five years in prison and five years probation. Petitioner was denied an appeal bond.

Attorney Goggans allowed Petitioner appeal to be dismissed because he did not pay the docket fees, or prepare the forms to the Court of Criminal Appeal. He was paid his asking fees that included the fees for the transcript, and docket fees. On November 16, 2005, the court of appeal dismissed the appeal. Exhibit F.

Judge Hobbs never asked Petitioner if she was satisfied with her attorney representation!

Attorney Goggans failure to keep client abreast, failure to file appeal and motions as promised resulted in him being fired.

November 21, 2005, Petitioner obtained the service of Attorney Keith by paying his asking fees for his personal service, the transcript, docket fees, etc. He had agreed agreed to take the appeal days before he was paid. He contacted Attorney Goggans as well to let him know Petitioner had obtained his service. On this date of November 21, 2005, Attorney Goggans submitted his first and only motion. He filed a motion of acquittal half heartedly to keep from having to pay Petitioner money back. This motion for acquittal was done 87 days after the conviction.

December 6, 2005, Attorney Keith motion to the Court of Criminal Appeal to have the appeal reinstated, and paid the fees and submitted his notice of appearance.

Attorney Richard Keith had been briefed and informed of everything that had transpired regarding Petitioner cause. He was advised of all the trial attorneys mistakes, as well as the sentencing/appeal attorneys mistakes.

Attorney Keith was communicating with Petitioner husband during this time on a regular basis. Petitionere did not get to talk again with Attorney Keith after his initial visits at the county jail. Petitioner wrote and forward case laws, information Petitioner obtained from law books about cases relating to her situation, Constitutional violations, etc.

Attorney Keith submitted the appeal without any regards to Petitioner requests in writing to include ineffective assistance of counselor, hearsay, still shot photos, no evidence hearing, etc. Even when asked to do so by Petitioner husband he insisted he could not include them in the original appeal. Attorney Keith stated after the appeal was filed that we was going to file a Rule 32 next and it would require an additional payment of \$2,500 minimum.

According to Alabama Rule of Court 2005, Attorney Keith could have included all of the above items in the first appeal and it would have resulted in a different result.

Upon realizing this information, Petitioner contacted the court of Criminal Appeal and submitted a Motion for "Help and Mercy." The court of Criminal Appeal wrote Petitioner back and stated that Judge Hobbs had approved Petitioner indigent status and as long as Attorney Keith was Petitioner attorney, Petitioner needed to address Petitioner concerns to him. Exhibit F, C-

Attorney Keith submitted a fraudulent document to the court. He was paid his fees that included the cost of the transcript for the appeal, docket fees, and his personal service fees.

The Court of Criminal Appeal Affirm the conviction.

It was at this point that Petitioner wrote a letter to the court that Petitioner was Pro Se due to all the issues relating to ineffective assistant of counselors.

On October 3, 2006, Petitioner received a letter from the court of Criminal Appeal granting Attorney Keith motion to withdraw.

Petitioner submitted an application for rehearing and it was overruled.

Petitioner submitted a Petition for Writ of Certiorari it was dismissed due to untimely. Petitioner was not aware of the process for timely mailing. Petitioner request for reinstatement was denied.

Petitioner now comes before this court for mercy in this cause.

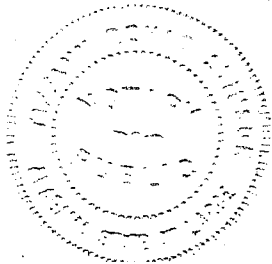
Wherefore, Petitioner Rena D. Stinson moves the Honorable court to grant the following relief:

- a) Accept jurisdiction over this case;
- b) Allow Petitioner an appeal bond to obtain the Discovery in this case and all the evidence that was collected such as the still shot photo, video tapes, DNA report that was not provided during the trial;
- c) Require Detective Jason Roberts to bring forth all the evidence that was obtained during the investigation, such as surveillance tapes, still shot photo, DNA report, original descriptions given when the crimes was committed, witnesses statements given at the crime scene, etc.
- d) Order an evidentiary hearing;
- e) At the evidentiary hearing, find that Petitioner was denied her rights under the U. S. Constitution, Alabama constitution Federal and Statutory Laws;
- f) Upon reviewing all evidence that was obtained and it confirm Petitioner innocent once reviewed and inspected Issue a conditional writ of Habeas ordering this court will grant a Writ of Habeas Corpus unless the State orders a new trial;
- g) Issue a Writ of Habeas Corpus freeing Petitioner from her unconstitutional confinement and probation.

Respectfully Submitted


Rena D. Stinson

Done This 28 Day of January 2007



NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Oct 25, 2009
BONDED THRU NOTARY PUBLIC UNDERWRITERS


Notary